

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF CONTRA COSTA

---o0o---

KAREN ALLEN,

Plaintiff(s),

v.

No. MSC12-00880

NRG Systems; Renewable Resources;  
Western Development & STORAGE, LLC;  
SHAH CORPORATION, et al.,

Defendant(s).

\_\_\_\_\_ /

---o0o---

11:02 a.m.

February 18, 2014

DEPOSITION OF JACOB ARI SWILLER

---o0o---

Reported by: SHERREE L. BLAKEMORE, CSR No. 7144

APPEARANCES

For the Plaintiff:

DREYER, BABICH, BUCCOLA  
WOOD, CAMPORA, LLP  
Attorneys at Law  
20 Bicentennial Circle  
Sacramento, California 95826  
BY: ROGER A. DREYER, Esq.

For the Defendants: ZKS Real Estate Partners, LLC;  
Delta Wetlands Properties,

LEWIS BRISBOIS BISGAARD & SMITH  
Attorneys at Law  
2850 Gateway Oaks Drive, Suite 450  
Sacramento, California 95833  
BY: TALIA DELANOY, Esq.

For the Defendant: NRG Systems, Inc.,

LIVINGSTON LAW FIRM  
Attorneys at Law  
1600 South Main Street, Suite 280  
Walnut Creek, California 94596  
BY: CRYSTAL VAN DER PUTTEN, Esq.

For the Defendants: Shah & Associates, dba  
PDC Corporation

KNUDTSON & NUTTER, LLC  
Attorneys at Law  
1420 Rocky Ridge Drive, Suite 120  
Roseville, California 95661  
BY: GIGI KNUDTSON, Esq.

For the Defendants: Renewable Resources Group and  
Western Development & Storage

DONAHUE & DAVIES, LLP  
Attorneys at Law  
1 Natoma Street  
Folsom, California 95630  
BY: JAMES R. DONAHUE, Esq.

APPEARANCES CONTINUED

For the Defendants: Adam Smith and  
Echelon Environmental Energy

ANDRADA & ASSOCIATES  
Attorneys at Law  
180 Grand Avenue, Suite 225  
Oakland, California 94612  
BY: TERENCE BRASCH, Esq.  
(Present via Telephone)

For the Defendants: Bouldin Farming Company

ROPERS, MAJESKI, KOHN & BENTLEY  
Attorneys at Law  
50 West San Fernando Street, Suite 1400  
San Jose, California 95113  
BY: JULIAN PARDO DE ZELA, Esq.

Corporate Counsel for the Deponent

Renewable Resources Group  
113 South La Brea Avenue, 3rd Floor  
Los Angeles, CA 90036  
BY: CHARLES M. STRINGER

Videographer: Db Ronk & Company  
2600 X Street  
Sacramento, CA  
BY: Dennis Ronk, CLV

---o0o---

INDEX

Examination of Counsel	Page
Mr. Dreyer	8
Ms. Van Der Putten	160,175
Ms. Delanoy	169
Mr. Brasch	173

INDEX OF EXHIBITS

EXHIBIT	PAGE
1 Notice of Taking Deposition	21
2 Delta Production 99-108	21
3 Document: Venture Strikes Land Deal	25
4 Document: Prospect Global Resources	25
5 Letter dated November 1, 2007 to Peter Braffman from Cole Frates	72
6 E-Mail Exchange	76
7 E-Mail Exchange	79
8 Letter dated March 18, 2008 to Contra Costa County from Rich Stephens	83
9 Document	104
10 Renewable Resources Group Master Contract Agreement	105
11 E-Mail Exchange	106
12 E-Mail Exchange	109
13 RRG-1956 E-mail from Kaschak to Dave Forkel	112
14 E-Mail Exchange	116
15 Document: Appraisal of Real Property	121

EXHIBITS CONTINUED

EXHIBIT	PAGE
16 E-Mail Exchange	126
17 E-Mail from Rick Stephens	128
18 E-Mail from Laura Wessein January 11, 2011	129
19 E-Mail February 9, 2011	131
20 RRG-2057 to 2064 NTSB Report	137
21 E-Mail February 14, 2011	149

---o0o---

1           IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2           IN AND FOR THE COUNTY OF CONTRA COSTA

3  
4       KAREN ALLEN,

5                       Plaintiff(s),

6           v.

No. MSC12-00880

7       NRG SYSTEMS;

8       RENEWABLE RESOURCES, et al.,

9                       Defendant(s).

10       \_\_\_\_\_/

11           BE IT REMEMBERED that on February 18, 2014,  
12       commencing at the hour of 11:02 a.m., at Atlantic  
13       Aviation, 2828 Donald Douglas Loop N, Santa Monica,  
14       California, before me, SHERREE L. BLAKEMORE, a Certified  
15       Shorthand Reporter, License No. 7144, there personally  
16       appeared

17  
18                       JACOB ARI SWILLER

19  
20       called as a witness herein; and after having been first  
21       duly sworn to tell the truth, the whole truth and nothing  
22       but the truth, was examined and testified as follows:

23                       ---o0o---

1 THE VIDEOGRAPHER: We're on the record at 11:02.  
2 Today's date is Tuesday, February 18th, 2014. Good  
3 morning. My name is Dennis Ronk, the videographer for  
4 Ronk & Company, located at 2600 X Street in Sacramento,  
5 California. Today, we're located at the Santa Monica  
6 Airport in Santa Monica, California. We're here in the  
7 matter of Karen Allen v. NRG Systems, Inc. This will be  
8 the deposition of Ari Swiller. The deposition is being  
9 noticed on behalf of plaintiffs. The court reporter is  
10 Sherree Blakemore of Royal Reporting.

11 Will all counsel please identify themselves and the  
12 parties they represent, please.

13 MR. DREYER: I'm Roger Dreyer, and I represent Karen  
14 Allen, Gail Back and Angela Lucero, as well as Alexander  
15 Ag Flying Services.

16 MR. DONAHUE: James Donahue on behalf of RRG and  
17 WDS.

18 MR. STRINGER: Charlie Stringer; I'm in-house  
19 counsel with RRG and WDS.

20 MS. KNUDTSON: Gigi Knudtson, on behalf of Shah &  
21 Associates, dba PDC.

22 MS. VAN DER PUTTEN: Good morning, Mr. Swiller. My  
23 name is Crystal Van Der Putten, and I represent NRG  
24 Systems.

25 MS. DELANOY: Talia Delanoy for Delta Wetlands

1 Properties and ZKS Real Estate Partners.

2 MR. PARDO DE ZELA: Julian Pardo de Zela for Bouldin  
3 Farming Company.

4 MR. DREYER: Terence, why don't you state your name.

5 MR. BRASCH: Terence Brasch for defendants Adam R.  
6 Smith and Echelon Environmental Energy.

7 THE VIDEOGRAPHER: The reporter may swear in the  
8 witness.

9  
10 (Witness sworn.)

11  
12 EXAMINATION BY MR. DREYER

13  
14 BY MR. DREYER: Mr. Swiller, can you state your name  
15 for the record and spell your last name for us, please?

16 A Jacob Ari Swiller, S-W-I-L-L-E-R.

17 Q And what is your date of birth, sir?

18 A 2/11/69.

19 Q My name is Roger Dreyer, I just introduced myself to  
20 you. I represent Karen Allen and the daughters of Steve  
21 Allen in connection with this incident that took place in  
22 January of 2010 -- excuse me, 2011. I'm going to be  
23 asking you questions today in connection with that case  
24 and knowledge you might have. It specifically is going to  
25 center around your involvement and experience with RRG, as



1 you might imagine.

2 We had a brief conversation before we got started  
3 about the process, and I gave you some admonitions about  
4 responding to questions and -- and that sort of thing so  
5 that the court reporter gets the benefit of your answers,  
6 my questions, Mr. Donahue's objections, or anybody else  
7 who might object. Okay?

8 A Okay.

9 Q Now, a couple of additional things just to put on  
10 the record. Number one, you and I can communicate with  
11 one another by making sounds or gestures or nodding your  
12 head like you just did. But Sherree needs to get you to  
13 actually say a word that's responsive. And if you don't  
14 do it, I might comment and say is that a yes or is that a  
15 no, that sort of thing, just to -- to get you to have the  
16 record. We have the video, which shows it, but we need to  
17 have the court reporter's record, as well. Okay?

18 A Understood.

19 Q It's important that you don't guess or speculate  
20 about things. You have a life experience, I don't know  
21 what it is, that's what we're going to find out today.

22 And there may be things that you have a general  
23 recollection about. I'm entitled to that. Sometimes  
24 people are so worried that they've got to be a hundred  
25 percent accurate. You can qualify a response any way you

1 want. Say, you know, I can't -- "I don't really remember"  
2 or "Here's my best recollection." How ever you want to  
3 qualify it is fine. But if you tell me today, for  
4 example, "I don't know, I don't have any idea," and then  
5 we go to trial and you come in, you have a very detailed  
6 response to the same question. There might be a reason  
7 for that, you reviewed a document or something of that  
8 nature. But it also may create a circumstance where I can  
9 say, "Well, Mr. Swiller, remember I asked you that  
10 question, you told me you didn't know, and now you know  
11 all that stuff." And, obviously, the comment is not a  
12 positive one. It's commenting on your credibility as a  
13 witness.

14 So I just share that with you to let you know the  
15 importance of getting your best testimony. Okay?

16 A Okay.

17 Q If I ask you a question today that you don't  
18 understand, it's on you to tell me that. Mr. Donahue  
19 might object to questions being vague and ambiguous, for  
20 example. But if you understand it, then we need to get  
21 your answer. If you don't, I'm happy to restate the  
22 question. Okay?

23 A Okay.

24 Q When you answer one, we're just going assume --  
25 everybody in the room is going to assume you understood it

1 and you're providing us a truthful answer. Okay?

2 A Okay.

3 Q Now, I've noticed this deposition, Mr. Swiller,  
4 pursuant to the Code, allowing me to do it in -- in this  
5 fashion with a videographer so I can use it at time of  
6 trial. And you're a representative of a particular  
7 defendant. So, potentially, we could just play the  
8 deposition. And if, for example, you're gone and you're  
9 off somewhere, I'd be able to play it then.

10 These are rules we have to follow as lawyers in  
11 terms of the process. So I want to let you know the  
12 video -- the video here is not to intimidate you or make  
13 you be worried about the fact it's videoed. But I just  
14 want, if we have to play it, that the jury actually gets  
15 to see you and hear you testify. And -- and that's the  
16 reason why we have the video here today. Okay?

17 A Okay.

18 Q You understand you're under oath?

19 A I do.

20 Q And in your business, it's important, I'm certain,  
21 that you tell the truth and you make honest  
22 representations to people. This is just like you're in --  
23 in court, in front of a judge and a jury. And with the  
24 video, for example, if you're not there, they can -- they  
25 can measure how you respond to questions as you do in your

1 day-to-day life.

2 My expectation is I'm going to get honest, truthful  
3 answers to every question.

4 And I'm certain you have every intention of doing  
5 that. Correct?

6 A Correct.

7 Q Let's talk a little bit about you. How would you  
8 describe what you do? What is your occupation?

9 A I am the managing partner of Renewable Resources  
10 Group, RRG, and Western Development & Storage.

11 We develop large tracts of land for water,  
12 alternative energy and ag projects. Primarily in  
13 California. And we've looked at projects in the western  
14 U.S. I run the day-to-day operations of RRG and WDS.

15 Q And where do you operate out of?

16 A My office is in Los Angeles, California.

17 Q And how long have you been the managing partner of  
18 RRG?

19 A Almost 11 years.

20 Q Now, in terms of the structure of the -- of the  
21 company, RRG, is it a corporation, LLC? What -- what is  
22 it?

23 A RRG, the holding company, is an S-Corp; and WDS is  
24 an LLC.

25 Q And WDS is Western Development --

1 A -- & Storage.

2 Q & Storage.

3 A Correct.

4 Q Okay. Is that still an existing entity?

5 A It is.

6 Q And in terms of you and your time, are you simply  
7 dealing with RRG or do you also deal with LDS?

8 A WDS?

9 Q WDS, excuse me.

10 A To me, it's sort of seamless, internally. It's  
11 really more a -- internally, the -- the ownership is the  
12 same. I have one partner; it's a 50-50 ownership between,  
13 the two entities. It's really -- we -- we have a  
14 renewable practice. So that falls under RRG. Our water  
15 practice is under Western Development & Storage.

16 So, internally, it's sort of seamless; externally,  
17 there's a little bit of branding that's different.

18 Q I gotcha. Now, when you say it's a "renewable,"  
19 what do you mean by that in lay terms?

20 A We develop -- we develop utility, land, to enhance  
21 utility scale, wind and solar development.

22 So the large solar projects that you see throughout  
23 the country, and particularly in California where there's  
24 a demand through the Renewables Portfolio Standard.

25 We have an active practice that puts together land,

1 entitles that land, and prepares it for purchase for the  
2 further development of those projects.

3 Q Like what you guys did with Onyx Ranch, as an  
4 example.

5 A Correct.

6 Q All right. Now, this industry, or this business  
7 that you have, you say you have one partner?

8 A Correct.

9 Q And who is that?

10 A His name is Duncan Cole Frates, F-R-A-T-E-S.

11 Q And has he been involved for the past 11 years, as  
12 well?

13 A Yes, he has.

14 Q And does Mr. Frates have a job title with the  
15 company?

16 A We don't have titles within the company, but he and  
17 I are the two owners.

18 Q All right. And you describe yourself as operating  
19 the project, or the business, so to speak, day-to-day.

20 A Correct.

21 Q What does Mr. Frates do?

22 A He's more on the project development, creating new  
23 business. We both, sort of -- it's a small enough firm  
24 where we both do a little bit of both. But in terms of  
25 more managerial stuff, that tends to fall on my plate.

1 Q All right.

2 A He travels more than I do. I happen to be in the  
3 office more, so it just sort of works out.

4 Q And do you have employees that work for RRG?

5 A We do.

6 Q And ballpark, how many employees do you have  
7 presently?

8 A Fourteen.

9 Q Now, in this business, do you -- when you say you  
10 develop property for these renewable resources like sun  
11 and solar and wind, do you have investors that invest in  
12 the projects that you guys do?

13 A We do.

14 Q All right. And is that part of your responsibility,  
15 seeking out and obtaining investors?

16 A Correct.

17 Q And is that also what Mr. Frates does?

18 A Correct.

19 Q All right. And so you'll put together a project,  
20 you'll find a location that you think would be a suitable  
21 project, then you'll put it together and potentially get  
22 investors in the project.

23 A That's correct.

24 Q And the investors that you folks look to, are they  
25 primarily financial institutions, are they individuals,

1 or -- or is there a particular category that you go to?

2 A I would -- I would say more of all of the above.

3 Q All right. Now, in terms of your background and  
4 work that you do -- and let me stop you just for a second.

5 MR. DREYER: Hey, Terence, whatever you're doing, we  
6 can hear it. So maybe --

7 MR. BRASCH: Go ahead. Sorry about that.

8 MR. DREYER: No problems. You need to mute your  
9 phone. Okay. Thank you.

10

11 (Pause in proceedings.)

12

13 Q BY MR. DREYER: Okay. So, Mr. Swiller, in terms of  
14 the business model, so to speak --

15 A Uh-huh.

16 Q -- what we've talked about, generally describes the  
17 process?

18 A Correct.

19 Q All right. Now, before you started -- you and  
20 Mr. Frates started RRG --

21 A Uh-huh.

22 Q -- was WDS also already in existence?

23 A It was.

24 Q All right. And did you develop WDS?

25 A I did not.



1 Q Was that a company that you folks purchased or took  
2 over or --

3 A We took -- Mr. Frates had started it. The partners  
4 in it had left; I took over their position.

5 Q And WDS, it's principal game plan, so to speak, is  
6 storing water?

7 A Storing water, finding water, and developing ways to  
8 store that water.

9 Q Again, principally in California?

10 A Correct.

11 Q Now, how long have you known Mr. Frates?

12 A Almost 17 years.

13 Q And have you ever had a business entity, either  
14 working with or ownership of, with Mr. Frates, before you  
15 started this company?

16 A No.

17 Q In terms of your background, before RRG, what did  
18 you do?

19 A After college, I worked on Capital Hill in  
20 Washington, D.C. I worked on both President Clinton's  
21 national campaigns. And then I worked for a company  
22 called the Yucaipa Companies, which is a private equity  
23 firm.

24 THE REPORTER: Yucaipa?

25 THE WITNESS: Yucaipa.

1 Q BY MR. DREYER: Spell that for us?

2 A Y-U-C-A-I-P-A, Companies, based here in Los Angeles  
3 as well.

4 Q And what did that company do?

5 A Invested in, primarily, big box stores, retail, did  
6 a roll up of -- that was eventually bought by Kroeger,  
7 including Ralph's, Food-4-Less, Smiths, Smitty's.  
8 Primarily in the grocery sector.

9 Q And that's how you came in contact with Mr. Burkle?

10 A Correct. That's he -- he was my -- he employed me.

11 Q All right. And your job with the Clinton campaigns,  
12 between the campaigns, were you still involved with the  
13 campaign?

14 A I worked for the Democratic Party, nationally.

15 Q All right. So you were with the Democratic Party  
16 for about eight years?

17 A No. Probably, all in, about five.

18 Q All right. And when you left the Democratic Party,  
19 you -- before that, you were an employee of the Party in  
20 terms of the campaign aspect?

21 A Do you want to get into the detail of it?

22 Q Just give us a general idea. If we met each other  
23 at a party and I asked you that question, how would you  
24 describe it?

25 A I could bore you with it. But, no, after college, I

1 worked for a member of Congress. Through that, worked --  
2 there are distinct things between a presidential campaign  
3 and the Party. So I worked for the presidential campaign,  
4 which then subsumed the party, when the nominee is  
5 selected. And then in-between, I worked for a member  
6 named Steny Hoyer, at the time, he was the chair of the  
7 Democratic caucus. After working for Mr. Hoyer, I went  
8 back to work for the Re-Elect President Clinton. Through  
9 that, met Mr. Burkle; he made a job offer after the  
10 completion of the '96 campaign.

11 So my then fiancée, now wife, and I, moved out here  
12 in March of 1997.

13 Q And generally describe what you did for Mr. Burkle's  
14 companies was what?

15 A I handled a lot of the political -- politics he was  
16 involved in; fundraising for his different investment  
17 funds. Strategic planning around the companies he was  
18 involved in. And such and such.

19 Q So you were dealing with financial, investment and  
20 issues of that nature?

21 A Less on the structuring, but more on the  
22 fundraising, correct.

23 Q All right. And similar to what you do with RRG in  
24 terms of fundraising. Meaning, getting investors into the  
25 companies?

1 A Uh-huh. Yes.

2 Q Okay. Now, describe for me, if you would -- with  
3 RRG, you've -- you've indicated to me that you're the  
4 day-to-day operations. Give us a general description of  
5 what you do in that capacity. And I understand there's a  
6 lot of detail and specifics --

7 A Uh-huh.

8 Q -- to what you do. But give me, first of all, kind  
9 of a global view.

10 A So, in general, you know, it's everything from  
11 managing payroll. I sign the checks that go out for the  
12 company. To the extent I'm needed, I am involved in  
13 different projects, as they're operating through. We tend  
14 to have managers, employees on each project. And  
15 depending on the issue associated with the project I'm  
16 involved, if we're in the process of raising money, I can  
17 be on the road for a few days, or weeks at a time.

18 I'm engaging with attorneys on our behalf in  
19 purchases of different parcels of lands, project entities;  
20 I work with the employees, really, on any aspects; and  
21 then, you know, like I said, the general management of the  
22 firm.

23 Q Will you go to locations when you're prospecting on  
24 property?

25 A Yes.

1 Q I'm going to show you -- Exhibit 1 is the deposition  
2 notice, Mr. Swiller. I'm going to show you Exhibit 2.

3 (Exhibit 1 marked.)

4 (Exhibit 2 marked.)

5 MR. DREYER: And I apologize, because we're here, I  
6 basically brought an exhibit and a copy for Mr. Donahue.  
7 But I'll let you guys know what it is and -- and you'll  
8 obviously get a copy.

9 Q This is a three-page document. And it comes from  
10 different sources, Mr. Swiller. And it gives me the  
11 ability to find out some things about people.

12 A Sure.

13 Q Let's start with the third page.

14 A Okay.

15 Q And it talks about you as being the founder of  
16 Renewable Resources Group Holding Company, and  
17 "Mr. Swiller's responsibilities include managing all  
18 aspects of the business."

19 That would be an accurate description.

20 A Yeah. They -- they should have had co-founder.

21 Q Okay.

22 A Because I'm not the founder alone.

23 Q You and Mr. Frates.

24 A Correct.

25 Q And -- and if you turn to the second page, this is

1 just a biographical paragraph or two that talks a little  
2 bit about you. But in the middle of that first paragraph,  
3 it says, "Mr. Swiller participates in all aspects of the  
4 firm's transactions and management."

5 Is that an accurate description?

6 A Correct. Yes.

7 Q And on the very first page, it talks about you  
8 having responsibilities, including managing all aspects of  
9 the business.

10 So that's a fair description of what you do in your  
11 role. True?

12 A Yes.

13 Q All right.

14 A Although I'm no longer 43, so --

15 Q Yeah. Well, that happens. Trust me. I -- I found  
16 something that indicates -- and -- and my way of dealing  
17 with people, as you'll see, is I'm going to be very  
18 straightforward and ask you stuff. And maybe I'm right,  
19 maybe I'm wrong about things. But we found from the  
20 Secretary of State that the entity, Western Development &  
21 Storage, it -- it told us, at least, that this company,  
22 the "Inc.," had been dissolved as of May of 2001.

23 Did it change the name to become an LLC then, is  
24 that what happened, or do you know?

25 A I would be speculating because it was before my

1 involvement.

2 Q Okay. But as far as you're aware, Western  
3 Development & Storage is an ongoing entity and part of  
4 what you operate.

5 A Correct.

6 Q All right. Now, in terms of experience, if you  
7 will. I want to go through a variety of different things  
8 relative to you and the business.

9 A Uh-huh.

10 Q One aspect of RRG is in evaluating property for the  
11 potential of wind energy. True?

12 A Correct.

13 Q Is that the correct term; is that the term you would  
14 use: Developing wind energy.

15 A If it's a wind energy project. I mean, it's not  
16 solely, it's alternative energy.

17 Q Okay.

18 A Renewable energy, more broadly.

19 Q More broadly. But if you're looking specifically at  
20 wind, is that how you at RRG refer to it, as wind energy  
21 projects?

22 A Yes.

23 Q Okay. Because I want to use your -- your language  
24 so that we're on the same page.

25 A That works.

1 Q And if you have -- strike that. We -- we're  
2 obviously dealing with, in this case, the Delta Wetlands  
3 Properties that you folks got involved in at some point in  
4 time.

5 A Correct.

6 Q And you know Delta Wetlands. Right?

7 A Correct.

8 Q All right. So let's -- and my understanding is that  
9 happened about 2008. Is that --

10 A Correct.

11 Q Okay. So let's talk about before 2008.

12 A Okay.

13 Q You had done wind energy projects - and by "you," I  
14 mean RRG - before that date. Correct?

15 A Correct.

16 Q How many had you done?

17 A Three.

18 Q And where had you done them?

19 A In the Tehachapi region of the state. So at the  
20 southern end of the Sierras.

21 Q And the -- the way -- is the Onyx Ranch one of  
22 those?

23 A It is.

24 Q Okay. And the way -- and I've got some -- some  
25 literature on that. And I'm not here to talk in any great



1 deal about it because I know that there's all sorts of  
2 things going on there. But this is an article we found,  
3 Exhibit 3.

4 (Exhibit 3 marked.)

5 (Exhibit 4 marked.)

6 MR. DREYER: Give one of those to Mr. Donahue.

7 Q And this just captures, from my perspective, that  
8 back in this time frame, the nature of -- the venture that  
9 RRG is making, as it's going out and it's finding property  
10 that it determines it can potentially use for wind. True?

11 A Correct.

12 Q All right. And this -- this property, the Onyx  
13 Ranch property; was that something that you found and  
14 developed or was that something that Cole, that Mr. Frates  
15 found and developed?

16 A He probably found it first. But as soon as it was  
17 brought up as an idea, we worked on it together.

18 Q Okay. Was he the guy that would do the initial  
19 groundwork on trying to find potential property and then  
20 bring it to you and you -- you two would then start  
21 developing the concept?

22 A On occasion. I mean, it's -- it's more fluid than  
23 that.

24 Q All right. Well, my focus with you is going to be  
25 on wind energy.

1 A Okay.

2 Q Understanding you're dealing with water and you're  
3 dealing with solar, as well --

4 A Uh-huh.

5 Q -- and you've got -- you have solar projects. True?

6 A We do.

7 Q How many solar projects do you have presently?

8 A Presently, three.

9 Q And how many water storage projects are you involved  
10 in, in some capacity? And by "you," I'm obviously  
11 referring to RRG.

12 He can't -- he can't help you.

13 A I'm just trying to -- I'm trying to add in mind.

14 Q Yeah.

15 A I would say about four.

16 Q All right. And that's totally --

17 A Or five.

18 Q -- totally normal, you know, to look for assistance.

19 This is part of that testing your recollection, so --

20 A Sure.

21 Q So four or five water storage?

22 A Correct.

23 Q Are you folks still involved with the Delta Wetlands  
24 project?

25 A We are.

1 Q And are you still involved in their water storage?

2 A Yes, we are.

3 Q Do you have anything going, relative to wind energy?

4 A We do not.

5 Q All right. Now, as far as the wind energy,  
6 understanding we've talked about Onyx, and you have -- how  
7 many wind energy projects do you have presently?

8 A Currently, we do not have any.

9 Q All right. And back in '08, you had Onyx.

10 A Correct.

11 Q And have you, since sold the project, or gotten out  
12 of the project? What's happened with Onyx?

13 A We sold a part -- portion of the land to the City of  
14 Vernon, which --

15 THE REPORTER: To the city of?

16 THE WITNESS: Vernon --

17 MR. DREYER: Vernon.

18 THE WITNESS: -- California, which, in turn,  
19 contracted with NRG to develop the wind resource. And --

20 MR. DREYER: That's a call.

21 THE WITNESS: And then we still have some land. We  
22 didn't sell the full holding there.

23 Q BY MR. DREYER: Okay. But in terms of the wind  
24 energy project, that's something that's being managed by  
25 the City of Vernon now?

1 A Correct.

2 Q Does RRG have anything to do with the managing of  
3 that wind project?

4 A We have a small contract to maintain the land around  
5 it. But nothing relative to the wind resource.

6 Q Did RRG develop the wind energy equipment on the  
7 property?

8 A We did not.

9 Q Did you evaluate it as a potential wind energy  
10 location?

11 A We did.

12 Q And did that involve installation of a met tower?

13 A It did.

14 Q And the installation of the met tower --

15 A Can I correct that?

16 Q Sure.

17 A There were towers installed by the previous owner.  
18 So we -- I don't believe we installed any projects or  
19 towers on our own on that. We used the resource of the  
20 towers that were existing.

21 Q Right. If it was Mr. Frates or whomever, once you  
22 got the property in contract of some type --

23 A Uh-huh.

24 Q -- it had the met towers already on it.

25 A Correct.

1 Q How many met towers?

2 A I believe it was four.

3 Q Did you personally ever go to the property itself?

4 A I did.

5 Q And did you see the met towers?

6 A I saw one.

7 Q And describe that met tower that you saw, in terms  
8 of whether it had any type of color, red, white, on the  
9 tower itself.

10 A I don't recall any color on it.

11 Q Did it have balls, orange balls on the guy wires?

12 A I don't recall that.

13 Q Did it have any kind of strobe lights or warning  
14 lights on it?

15 A Not that I recall.

16 Q And this area that the met tower was in, describe  
17 the area.

18 A It was a hilly area, sort of a -- crossed some  
19 grass, mostly rock, sort of mountain face.

20 Q Was it an area that you thought any kind of  
21 agricultural work was being done, planting, anything of  
22 that nature?

23 A There was some grazing --

24 Q Okay.

25 A -- but it wasn't really habitat for much more than

1 that --

2 Q All right.

3 A -- to my knowledge.

4 Q All right. And I take it you personally, have you  
5 ever been involved in the ag business, in terms of running  
6 a ranch or -- strike that -- running a farm or an  
7 agricultural business that goes from planting to  
8 harvesting?

9 A At that time, no.

10 Q In growing up -- I take it you grew up on the East  
11 Coast?

12 A I did.

13 Q Your first involvement with any kind of farming,  
14 agricultural business, was when?

15 A There was none growing up.

16 Q Okay. How about as of today; have you ever had  
17 anything to do with managing of a --

18 A Yes.

19 Q Okay. What?

20 A We have about 1,000 acres in almonds, about 300 in  
21 pistachios. We own about 12,000 acres in alfalfa. And  
22 we, over the summer, this past summer, purchased Sun World  
23 Table Grape Company.

24 THE REPORTER: Purchased?

25 THE WITNESS: Sun World Table Grape Company.

1 Q BY MR. DREYER: And when is the first time that you,  
2 Mr. Swiller, had -- your business had anything to do with  
3 any kind of ag business itself?

4 A Well, probably the purchase of -- well, prior to  
5 that, we owned land in the Antelope Valley.

6 THE REPORTER: Antelope?

7 THE WITNESS: Antelope Valley, that we subleased to  
8 carrot growers. And then when we purchased Onyx Ranch,  
9 that included some leases for some other farmers, as well.

10 Q BY MR. DREYER: On any of the farmland in the Onyx  
11 Ranch location, did you have met towers installed?

12 A No.

13 Q Were any met towers existing there?

14 A On the farm land?

15 Q Yes.

16 A There was none.

17 Q Now, you mentioned NRG. What's your first notice or  
18 knowledge of that company?

19 A Well, there are two NRGs.

20 Q Okay.

21 A You're -- you're aware of that?

22 Q Tell me the NRG you're referring to.

23 A The NRG I'm referring to is the large  
24 international -- it's primarily -- it's an energy company  
25 with a lot -- a big portfolio of -- of nuclear in its

1 portfolio, but also a robust renewable practice. That's  
2 what I'm referring to.

3 Q All right. And when you referred to NRG earlier,  
4 that's what you're talking about?

5 A Correct.

6 Q Before Steve Allen was killed in January of 2011,  
7 were you aware of the company, NRG, that manufactured met  
8 towers?

9 A I was not.

10 Q All right. Now, let's move off Onyx and let's talk  
11 about any other wind projects. Because I think you said  
12 you had three that you did.

13 A Yeah. We were early developers under an entity  
14 called Prometheus Energy, that Cole was the primarily  
15 owner of. That developed the project that eventually  
16 became known as Pine Tree.

17 THE REPORTER: Pine Tree?

18 THE WITNESS: Pine Tree. Sorry.

19 THE REPORTER: If you could keep your voice up.

20 THE WITNESS: Okay. Pine Tree, which is in the  
21 Tehachapi's as well. And then there were two wind  
22 projects related to the Onyx Ranch.

23 Q BY MR. DREYER: All right. So Onyx has two, Pine  
24 Tree is one, so a total of three?

25 A Correct.



1 Q All right. And --

2 A I'm sorry. And the project we began to look at at  
3 Delta Wetlands.

4 Q Okay. And I'm going to do everything before Delta  
5 Wetlands.

6 A Sure.

7 Q And so the Pine Tree was before Delta Wetlands?

8 A Correct.

9 Q When was that time frame?

10 A It probably started before Cole and I partnered and  
11 continued until 2004 or '5.

12 Q Did you at RRG have any involvement in the initial  
13 prospecting of wind, meaning installation of met towers?

14 A No.

15 Q When you folks took over Pine Tree --

16 A Uh-huh.

17 Q -- was it already an existing wind-energy producing  
18 location?

19 A No.

20 Q Did you develop it in the context of installation of  
21 turbines?

22 A No. That was done by L.A. Department of Water and  
23 Power.

24 Q All right. And were you the company that got L.A.  
25 Water and Power involved with the property?

1 A Correct.

2 Q In the Delta Wetlands project that we're here on,  
3 your company got hired or got involved with Delta Wetlands  
4 as the managing entity. True?

5 A Project manager, uh-huh.

6 Q Okay. And that was to manage the water storage?

7 A Correct.

8 Q And, ultimately, to develop, potentially, the  
9 wind-energy project?

10 A Correct.

11 Q All right. The situation with Pine Tree --

12 A Uh-huh.

13 Q -- understanding that started before you started

14 RRG --

15 A Uh-huh.

16 Q -- where was project when you first -- RRG first got  
17 involved, in terms of its progression?

18 A Well, Cole was there from its inception. So when we  
19 got involved, it was close to fully entitled, and ready to  
20 be sold to an entity that would develop it.

21 Q Had Mr. Frates been involved, as far as you know,  
22 we're going to eventually find out from him --

23 A Uh-huh.

24 Q -- was he involved at all in the development of the  
25 met towers?

1 A I don't know.

2 Q All right. Did you ever see met towers on the Pine  
3 Tree property?

4 A No. I've never been to it.

5 Q Okay. That answers my next question.

6 Now -- so Onyx, we have two wind-energy locations?

7 A Uh-huh. Yes.

8 Q And describe those for us so that we can  
9 differentiate between the two.

10 A Well, it's the portion that was sold to the City of  
11 Vernon. And then there's additional land, fence line to  
12 that portion that also has good wind resource that we  
13 retained the -- which we retained fee title to.

14 Q And have you developed it yet?

15 A We have not.

16 Q Are there any met towers on that location?

17 A I don't believe so.

18 Q Now, as far as you know, Mr. Swiller -- and I -- I  
19 recognize that you became aware of the incident where  
20 Mr. Allen was killed. Right? You became --

21 A I'm sorry?

22 Q You became -- you became aware of that incident?

23 A Yes.

24 Q All right. And as a result of that, you have -- I'm  
25 certain, learned many things about met towers and things

1 of that nature. But what I want to find out is before  
2 Mr. Allen had this incident take place in January of 2011,  
3 had RRG, as far as you know, ever been involved in the  
4 erection of a met tower?

5 A I don't believe so.

6 Q So the met towers affiliated with this project, with  
7 Delta Wetlands -- you understand there are two met towers  
8 that were installed.

9 A Correct.

10 Q Those were the first two that RRG took from the  
11 beginning and the planning stages and getting the permits;  
12 these were the first two towers you folks had done.

13 A Correct.

14 Q All right. Now, in preparation for today, have you  
15 reviewed any materials or documents just to get your --  
16 your mind wrapped around what we're going to be talking  
17 about?

18 A I reviewed probably about 30 pages of documents that  
19 were pulled because they had my name on them in some form  
20 or fashion.

21 Q So, for example, some documents about the business  
22 with your name on it?

23 A More e-mails related to Delta Wetlands.

24 Q Okay. And the time frame of these e-mails, did it  
25 run throughout the course of time dealing with the

1 company, with Delta project -- the Delta Wetlands project  
2 and RRG?

3 A There were primarily, I guess so, yes. I'm not  
4 sure.

5 Q Did you see anything, Mr. Swiller, other than  
6 e-mails where your name was on it either as recipient or  
7 someone who was sending it?

8 A I saw a memo or a letter I sent to a firm called  
9 Kennedy/Jenks, in a dispute related to the siding on the  
10 met towers. So I would say that it was attached to an  
11 e-mail, but also a letter with my name on it.

12 Q Okay. And Kennedy/Jenks, is it spelling of Kennedy  
13 the way we would expect it to be?

14 A Correct.

15 Q And Jenks, J-E-N-K-S?

16 A I think it's J-E-N -- J-E-N-K-S.

17 Q All right. And this letter is dated approximately  
18 when?

19 A I believe 2008.

20 Q And what was the nature of this letter?

21 A We believed that they had not properly investigated  
22 the site for which we were trying to install the towers.  
23 And so there was a dispute over their fee and the cost it  
24 was to have the site reevaluated.

25 Q So this was after you had developed the business

1 relationship with Delta Wetlands to be involved in  
2 managing the property. True?

3 A True.

4 Q And this was an entity that you hired to assist you  
5 as a consulting company as to what steps you take for wind  
6 energy?

7 A More sighting of the towers within the Delta.

8 Q Actual met towers?

9 A Correct.

10 Q All right. And this letter was a letter from you to  
11 somebody or someone to you?

12 A From me to -- I forget the gentleman's name who was  
13 our point of contact at the firm.

14 Q And that was, basically, to let them know that you  
15 were unhappy with what they had done and there was a  
16 dispute of some type.

17 A Correct.

18 Q And this was obviously before the met towers were  
19 actually installed, I take it.

20 A Correct.

21 Q And you then -- RRG then replaced Kennedy/Jenks with  
22 somebody else?

23 A I believe so, yes.

24 Q Do you remember who you replaced them with?

25 A I do not.

1 Q Who, from your perspective, were you looking to, to  
2 be the point person for RRG, as it relates to this  
3 wind-energy project?

4 A Internally or externally?

5 Q Internally. Was it you, was it Mr. Frates?

6 A No. It's -- we had two people working out with me,  
7 Lloys Frates, same last name, and Mike -- Michael Kaschak.

8 Q Kaschak?

9 A K-A-S-C-H-A-K.

10 Q Okay. And Lloys is Mr. Frates' sister. Right?

11 A That's correct.

12 Q And had you ever worked with her before this Delta  
13 Wetlands project?

14 A Oh, yeah. She's an employee of the firm.

15 Q All right. And what's her capacity presently?

16 A She's still an employee of the firm. She manages  
17 several of our projects, and she assists with new project  
18 development and acquisition.

19 Q Does she serve in a similar role to Cole?

20 A She does not.

21 Q All right. Who supervises her?

22 A Cole and myself.

23 Q All right. And how long has she been with RRG?

24 A Seven or eight years, I believe.

25 Q Does she have any background in agricultural

1 endeavors?

2 A She does now.

3 Q All right.

4 A She didn't when she started.

5 Q Okay. Let me -- let me start the question again.

6 A Okay.

7 Q It's a good point.

8 When you first hired her, did she have any  
9 experience, as far as you're aware, of the agricultural  
10 industry?

11 A Not that I recall, no.

12 Q How about Mr. Kaschak; did he have any -- before he  
13 came to work for RRG, have any involvement in the  
14 agricultural industry?

15 A Not that I recall, no.

16 Q And when did he start? Ballpark is fine.

17 A 2008.

18 Q So shortly before this project or was he hired  
19 specifically to work on this project?

20 A He was not hired specifically to work on this  
21 project, but I don't recall his exact hire.

22 Q Okay. And who hired him?

23 A Cole and myself.

24 Q Okay. And why did you hire Mr. Kaschak?

25 A He had worked -- we knew of Mike through a



1 foundation he worked at. He had an environmental  
2 background. He's super bright, and very likable; so we  
3 thought he'd be a good employee.

4 Q And when you say "environmental background," that,  
5 from your perspective, fit the projects that you folks  
6 were looking for because you're dealing with environmental  
7 issues.

8 A Correct.

9 Q And what you're looking at, as a business model, so  
10 to speak, is you're looking to develop projects that  
11 provide alternative energy from standard electrical power,  
12 I take it.

13 A From Cole, yes.

14 Q Okay. And the solar aspect of your business, you  
15 and Mr. Frates are involved in.

16 A Correct.

17 Q And you have people that have solar background, I  
18 take it.

19 A Correct.

20 Q Back in 2008, did you have anybody that, in your  
21 mind, Mr. Swiller, had agricultural industry background,  
22 where they'd been involved in the ag industry?

23 A As direct employees?

24 Q Yeah.

25 A No.

1 Q Now, are you a pilot?

2 A I am not.

3 Q And have you flown in small airplanes?

4 A I have.

5 Q All right. And before 2008, you've done that?

6 A Correct.

7 Q Okay. In terms of training, understanding you might

8 have -- you're not a pilot and -- and you might have flown

9 in these planes. Have you ever developed any interest,

10 just hobby-wise, anything at all, dealing with aviation

11 before 2008?

12 A I have not.

13 Q Other than using it, no -- no specific interest.

14 A That's correct.

15 Q Same thing for Mr. Frates, as far as you know?

16 A He -- he has more interest in aviation than I do.

17 Q Does he have a pilot's license?

18 A He does not.

19 Q Now, I understand you grew up on East Coast.

20 A I did.

21 Q And you've been out here on the West Coast how long?

22 A 17 years.

23 Q And have you been up in Northern California?

24 A I have.

25 Q You're familiar with what agricultural aviation is,

1 crop dust pilots, that sort of thing?

2 A Yes.

3 Q All right. You know from your own personal  
4 experience -- have you ever seen a crop dust aviation --  
5 agricultural aviation pilot fly, just --

6 A I have.

7 Q Okay. So you understand that they have to fly at  
8 very low altitudes to do their application?

9 A I've seen that, yes.

10 Q And you certainly saw that before 2008. True?

11 A I don't know when I've seen it.

12 Q You certainly were aware of that before you folks  
13 installed met towers on the Delta Wetlands property.  
14 True?

15 A I'm not sure.

16 Q When is the first time you ever saw an agricultural  
17 aviator flying below, you know, down close to the ground,  
18 let's say within a hundred feet off the ground?

19 A I don't -- I don't recall the day.

20 Q Okay. Before Mr. Allen was killed?

21 A Yes.

22 Q Now, whether you'd seen it or not, you certainly,  
23 just being who you are, you understand that there is an  
24 agricultural aviation industry where there are individuals  
25 who fly crop dusters or small planes at low level to do

1 applications of pesticides and seeds, and things of that  
2 nature. True?

3 A True.

4 Q And you certainly knew that before 2008. Right?  
5 That such an industry was out there and existed.

6 A I don't recall any recollection about the industry.

7 Q Okay. Well, in -- you're -- you're hold now?

8 A I'm 45.

9 Q All right. So 2008 is about six years ago. So  
10 you're in your late 30s.

11 A Yes.

12 Q By the time you were in your late 30s, were you  
13 aware that there was a group of people out there that flew  
14 planes at low altitudes to apply seeds and pesticides in  
15 agricultural areas?

16 A Sure.

17 Q Okay. And had you ever been on a plane of that  
18 size, a two-seater type plane?

19 A I had not.

20 Q Did you -- as of 2008, did you know what the FAA  
21 was?

22 A Yes.

23 Q All right. And I take it that was just from just --  
24 just common knowledge, understanding there's a national  
25 entity out there in the federal government that deals with

1 aviation.

2 A Correct.

3 Q Did you ever deal with the FAA while you were on the  
4 capital?

5 A I did not.

6 Q And the times that you were with the different  
7 congressmen that you worked for, did the issue of -- any  
8 issue dealing with the FAA ever come across your table?

9 A Not that I recall.

10 Q Now, we see all sorts of things in reference to  
11 e-mails relative to this concept of 200 feet. The FAA has  
12 this 200-foot location, where above it, certain things  
13 need to be in place.

14 You're mindful, generally, of what I'm talking  
15 about?

16 A From reviewing those e-mails, yes.

17 Q All right. Now, before 2008, did you have any idea  
18 that the -- that there was some kind of height requirement  
19 before certain things are to be employed on towers?

20 A No.

21 Q So that was -- as a result of this event involving  
22 Mr. Allen, that's the first time you ever became aware of  
23 the FAA standard, about 200 feet and what needs to be  
24 there above it?

25 A That's correct.

1 Q All right. So before Mr. Allen's airplane came in  
2 contact with the RRG met tower, Ari Swiller had no idea  
3 what the FAA had, in terms of rules or regulations  
4 concerning height and safety devices.

5 A Correct.

6 Q All right. Now, after Mr. Allen's death, did you  
7 discuss that specific issue with Mr. Frates, your partner?

8 A Which issue?

9 Q The FAA standards, relative to height and safety  
10 devices.

11 A I don't recall a specific discussion like that.

12 Q Did he ever relate to you what his personal  
13 knowledge was about the FAA rules and regulations,  
14 relative to what you need to do on anything above  
15 200 feet?

16 A Not that I recall, no.

17 Q All right. Let's take a few minutes and go through  
18 some of these folks. Cole Frates, I wanted to talk to you  
19 about. You've told me, basically, I think, what I need to  
20 know there. Same thing with Lloys Frates.

21 Do you know a Peter Braffman?

22 A I do.

23 Q Who is he?

24 A At the time we started the Delta Wetlands project,  
25 he was one of the -- I don't know what his title is within

1 Zurich Alternative Asset Management. But they held the  
2 title to -- or were partners in ZKS. I'm not even sure  
3 how that entity evolved. But he was our point of contact.

4 Q With that entity.

5 A Correct.

6 Q As to their ownership or relationship with Delta  
7 Wetlands.

8 A Correct.

9 Q Okay. Did you ever meet Mr. Braffman, personally?

10 A I did.

11 Q And he's back on the East Coast?

12 A He is.

13 Q Did you ever know him before this particular  
14 project?

15 A I did not.

16 Q Did Mr. Braffman ever have, from your perspective,  
17 any dealings with RRG, concerning the development of this  
18 property, the topic of developing this property for wind  
19 energy?

20 A I'm sorry. Can you restate?

21 Q Did you ever have any conversations, correspondence,  
22 anything, with Mr. Braffman in his capacity as you've  
23 described it with Zurich, on the topic of developing the  
24 property for wind energy?

25 A I don't recall specific conversations with him.

1 Q Do you think generally he was in the loop on this  
2 stuff?

3 MR. DONAHUE: When you say -- that's vague and  
4 ambiguous. You mean with other employees of RRG or with  
5 just him, Mr. Swiller?

6 Q BY MR. DREYER: This is just generally, your -- your  
7 knowledge generally. Could come directly or from some  
8 other source, whether you believe that Mr. Braffman ever  
9 had anything to do with the discussions dealing with wind  
10 energy.

11 MR. DONAHUE: If you know.

12 THE WITNESS: Yeah. I believe he probably was  
13 aware, yes.

14 Q BY MR. DREYER: Did you personally ever discuss the  
15 topic with him?

16 A I don't recall personal conversations with him.

17 Q Were you point of contact with Mr. Braffman, was  
18 Mr. Frates, or do you know?

19 A Both of us.

20 Q All right. Rick -- or Rich Stephens; do you know  
21 who he is?

22 A I do.

23 Q And who is he?

24 A He's the owner of ZKS. And I don't, again, know the  
25 relationship exactly between him and Zurich. But he's one



1 of the folks that oversees the project.

2 Q Did you ever have conversations with him, as it  
3 relates to the topic of wind energy on this property?

4 A I don't recall specific conversations.

5 Q Do you remember correspondence?

6 A I don't.

7 Q You dealt -- do you remember dealing with  
8 Mr. Stephens after Mr. Allen's death, on the -- on aspects  
9 of the death?

10 A I do.

11 Q How about Mr. Braffman?

12 A He had already left, I believe.

13 Q He'd left Zurich?

14 A Correct.

15 Q Who had the management responsibility of Zurich  
16 between Stephens and Braffman as far as you know?

17 A I'm sorry?

18 Q Who was the -- the principal at Zurich in terms of  
19 interfacing with RRG?

20 A Peter Braffman.

21 Q Okay. Now, Michael Kaschak.

22 A Kaschak.

23 Q Kaschak.

24 A Uh-huh.

25 Q You've told me about your experience with him or

1 just in a very general way. Is he still with the company?

2 A He's still with RRG, correct.

3 Q What was his role in dealing with the Delta Wetlands  
4 Properties?

5 A He was focused on the development of the wind  
6 assets.

7 Q As you reflect back -- and I understand you're  
8 responsible for the day-to-day operations --

9 A Uh-huh.

10 Q -- of the entire company. When this wind project  
11 was first getting addressed up in Northern California, who  
12 were you looking to for the day-to-day operation of the  
13 wind-energy effort?

14 A Mr. Kaschak and Ms. Frates.

15 Q Okay. Those were the two?

16 A Correct.

17 Q And in terms of who supervised them, as to doing  
18 their work, would that be both you and Mr. Frates?

19 A Correct.

20 Q And was one of you, between you and Mr. Frates, more  
21 involved than the other, or was it basically, the way in  
22 which you guys operate, you're both involved?

23 A We're both involved.

24 Q Jim James; who's he?

25 A He's another employee of our firm. His background

1 is in water resources.

2 Q Is his principal operation with RRG water-related?

3 A Primarily; and entitlement-related.

4 Q What does that mean?

5 A Um - for different projects, we have to work with  
6 counties around the state on giving entitlements.

7 Jim has an environmental background that helps us,  
8 and the knowledge within that, to oversee the third party.  
9 We're a small shop, so he helps us oversee third-party  
10 vendors who assist with our entitlement efforts.

11 Q BY MR. DREYER: Before RRG's involvement with Delta  
12 Wetlands --

13 A Uh-huh.

14 Q -- are you aware of whether Ms. Frates ever had any  
15 involvement in prospecting for wind?

16 A She worked on the Onyx Ranch property.

17 Q Anything other than Onyx?

18 A Not that I'm aware of.

19 Q So as far as you're aware, she had no involvement  
20 before this particular project, the Delta Wetlands  
21 project, of getting a met tower installed and going  
22 through that process.

23 A That's correct. Not that I recall.

24 Q Okay. How about Mr. Kaschak?

25 A Same for Mike.

1 Q So if I were to say Mr. Kaschak had no experience in  
2 going through the process of getting a met tower installed  
3 and doing the wind prospecting, as far as you know, the  
4 Delta Wetlands project was the first time he did that.

5 A Correct.

6 Q Now, Jim James; understanding his environmental  
7 background, and principally dealing with water --

8 A Uh-huh.

9 Q -- had he ever been involved in a wind project  
10 before the Delta Wetlands property?

11 A He may have. I don't recall.

12 Q Are you aware that he's the one that went through  
13 the application process for the met towers on this  
14 particular project?

15 A I believe he and Mr. Kaschak did.

16 Q And as you sit here today -- we're going to ask  
17 Mr. James, but I just want to get a heads up.

18 A Uh-huh.

19 Q Are you aware of Mr. James ever having any  
20 experience with getting an application for a met tower for  
21 a wind-energy project before this particular effort?

22 A No.

23 Q So as far as you're aware, as you sit here today,  
24 his putting in the applications, relative to these met  
25 towers for the Delta Wetlands project, as far as you know,

1 that's the first time he'd ever done that.

2 A Uh-huh. That's my recollection.

3 Q Is he a pilot?

4 A No, not that I -- no.

5 Q Do you have anybody that works for you that you're  
6 aware of is an actual, licensed pilot?

7 A I do not.

8 Q Charlie Stringer, who's he?

9 A You want to ask him?

10 MR. DREYER: That's Charlie Stringer, now I know.  
11 Okay. Thank you. Good answer. Just saw his name, I'm  
12 trying to figure it out.

13 I apologize, Mr. Stringer.

14 MR. STRINGER: No worries.

15 Q BY MR. DREYER: Dave Dorrance, who's he?

16 THE REPORTER: Dave?

17 MR. DREYER: Dorrance.

18 THE WITNESS: Dorrance, D-O-R-R-A-N-C-E.

19 MR. DREYER: Right.

20 THE WITNESS: He's another employee of the firm.  
21 He's a hydrogeologist, his background is in water.

22 Q BY MR. DREYER: So he -- did he have anything to do  
23 with this particular project other than water?

24 A No.

25 Q So the wind aspect, he had nothing to do with.

1 True? As far as you're aware of?

2 A Correct.

3 Q Okay. Now, Richard Simons, have you ever heard that  
4 name before?

5 A Richard Simons?

6 Q Yes. Not the guy who --

7 A I think you mean Rich Simon.

8 Q Simons, excuse me.

9 A Rich Simon.

10 Q S-I-M-O-N-S?

11 A I don't believe it has an "S" at the end.

12 Q Okay.

13 A Rich Simon; he owns a firm called V-BAR. And -- is  
14 that who you're referring to?

15 Q Yes.

16 A He is, from my experience, very knowledgeable in the  
17 wind resource area. So he is an outside consultant we've  
18 used for our firm.

19 Q Is he the person that did what you had originally  
20 expected Kennedy/Jenks to be involved in doing?

21 A No. His expertise is different.

22 Q Okay. How is his expertise different?

23 A He's an expert in recognizing wind corridors,  
24 measuring that energy, developing wind potential models,  
25 assessing good areas in order to entitle projects. So

1 not -- I don't know if he's -- if he's an engineer in  
2 terms of the building, but certainly in terms of both  
3 solar and wind energy. But, primarily, wind is where  
4 we've used Rich.

5 Q Is this Delta Wetlands project the first time you  
6 used Rich?

7 A He -- I think he assisted us in Onyx Ranch is how we  
8 first got to know him.

9 Q So that would have been the connection that led to  
10 him ultimately being involved to Delta Wetlands?

11 A Correct.

12 Q Okay. And you've met him and talked to him and have  
13 a connection where you can pick up the phone and call him  
14 Rich?

15 A I have not met him in person. I have spoken to him  
16 over the phone and I've been in e-mail correspondence with  
17 him.

18 Q All right. So he's not a personal friend, he's  
19 strictly an outside vendor contact.

20 A Correct.

21 Q Now, Bouldin Farms; do you know what that entity is?

22 A I do.

23 Q And have you ever dealt with anybody that has  
24 indicated to you they're involved with Bouldin Farms?

25 A Not directly.

1 Q You understand that they're a lessee of some aspect  
2 of the property on the Delta Wetlands project.

3 A I am.

4 Q Any knowledge of them other than that?

5 A I just know their owner is John Winther and not much  
6 else.

7 Q Have you ever talked to Mr. Winther?

8 A No, I have not.

9 Q So you've never even met him. True?

10 A True.

11 Q Do you have an understanding that -- that  
12 Mr. Winther, in his business, is an agricultural business?

13 A Part of it, yes.

14 Q Okay. Do you know Dave Forkel?

15 A I do.

16 Q Have you met Dave?

17 A I have.

18 Q And when is the first time you met Mr. Forkel?

19 A Shortly after -- my assumption would be shortly  
20 after the time we were brought on to work on the Delta  
21 Wetlands project.

22 Q And by "assumption," you mean that's your best  
23 recollection, it would have been in that time frame?

24 A It would make the most sense since he's the general  
25 manager of the project. He's been with the project, I



1 believe, close to 20 years. And so when we were brought  
2 on, I don't know how soon after, but it would be natural  
3 that we would meet with Mr. Forkel.

4 Q So he knew who you were as one of the -- the  
5 co-owners of RRG, when you folks got involved in the  
6 project?

7 A Correct.

8 Q You could pick up the phone and call him because of  
9 his general management position with Delta Wetlands if you  
10 wanted to.

11 A That's correct.

12 Q And, conversely, he could call you at any time if --  
13 if he needed to talk to you?

14 A That's correct.

15 Q Do you know who Adam Smith is?

16 A I do.

17 Q And who's Adam Smith?

18 A I believe he works for Echelon, which was the wind  
19 energy -- the met tower installer that we brought on to  
20 develop the met tower along with our firm.

21 Q Okay. And had you ever met Mr. Smith?

22 A I have not.

23 Q Have you ever talked to him on the phone?

24 A Not that I recall.

25 Q And Echelon, who hired that company to do the work?

1 A I believe he was hired through Delta Wetlands.

2 Q Well, does that mean Mr. Forkel hired him, as the  
3 general manager?

4 A I don't recall if it was Mr. Forkel or our advice  
5 that brought him on.

6 Q Had Adam Smith and Echelon ever done any work for  
7 RRG or DWS before your involvement, RRG's involvement, in  
8 the Delta Wetlands project?

9 A No.

10 Q This is the first time with him.

11 A Correct.

12 Q And who found Echelon and Mr. Smith with RRG, as far  
13 as you know?

14 A My recollection is he was a recommendation from  
15 Mr. Simon, Rich Simon.

16 Q So your best recollection -- you could be wrong.

17 A Correct.

18 Q But your best recollection is Mr. Simon knew you  
19 were looking for someone to do a met tower or met towers  
20 installation. True?

21 A Correct.

22 Q And he gave you this recommendation as, "I know  
23 this company, this guy, this is who you want to go to"  
24 type of thing?

25 A Correct.

1 Q And who was the person that Mr. Simon would have  
2 given this information to?

3 A What information?

4 Q That this is the person you want to hire to do the  
5 installation.

6 A Oh, Mr. Kaschak, Ms. Frates.

7 Q Okay. So that would be your thought, that it would  
8 have gone to one of them.

9 A Correct.

10 Q How about Cole Frates?

11 A Would he -- how about him what?

12 Q I'm sorry. Would Mr. Simon have communicated  
13 that -- potentially that information about Echelon and  
14 Adam Smith to Cole Frates?

15 A I don't believe directly, no.

16 Q Did you ever go up to that property, Mr. Swiller,  
17 before Mr. Allen was killed?

18 A No.

19 Q So in terms of that region, the Contra Costa County  
20 region, and where this location is, had you ever been  
21 there specifically to look at this property and project  
22 yourself?

23 A I have not. I did not.

24 Q And still have not, I take it?

25 A To this area, no.

1 Q All right. For example, did you ever go to the  
2 location or the general location where this event took  
3 place?

4 A No.

5 Q Now, Cole Frates; had he been up in that location at  
6 any point in time before Mr. Allen was killed?

7 MR. DONAHUE: If you know.

8 Q BY MR. DREYER: Yeah, if you know.

9 A I don't know.

10 Q Okay. You might not, you might have; you just don't  
11 know one way or another.

12 A Correct.

13 Q All right. Shah & Associates, do you know who they  
14 are?

15 A Yes.

16 Q Let me ask it this way.

17 A Uh-huh.

18 Q Before January of 2011, did you know who Shah &  
19 Associates was?

20 A No.

21 Q This is something you found out since Mr. Allen was  
22 killed.

23 A Correct.

24 Q Did you know about Echelon and Adam Smith doing the  
25 met tower installation before Mr. Allen was killed or is

1 that something you found out later?

2 A I had a recollection of them, yes.

3 Q Did you ever discuss the met towers with Mr. Forkel,  
4 at any time before Mr. Allen was killed?

5 A I don't recall.

6 Q Does RRG have a contractor's license?

7 A We do not.

8 Q From your perspective, do you know, Mr. Swiller,  
9 whether your company has to have a contractor's license to  
10 put in an application to erect these met towers?

11 MR. DONAHUE: Objection. Calls for a legal  
12 conclusion.

13 But answer it only if you know.

14 Q BY MR. DREYER: And let me rephrase the question.

15 I'm just going to your statement. You're not a  
16 lawyer. True?

17 A That's correct.

18 Q All right. And you have a lawyer that -- in-house,  
19 so to speak, to help you with legal issues if you need  
20 them. Fair?

21 A Fair.

22 Q And I take it, and Mr. Stringer, if you have  
23 something going on that you or Mr. Frates feel, "Hey,  
24 we've got to look at the law on a particular thing for an  
25 application or something of that nature, what we need to

1 do," he's your resource.

2 A Correct.

3 Q And Mr. Stringer has been with you how many years?

4 A Eight or nine.

5 Q Okay. So he's certainly there back in '08.

6 A Correct.

7 Q Your state of mind.

8 A Uh-huh.

9 Q I don't want a legal conclusion, but something you  
10 might have heard or heard about or believed. Do you know  
11 whether RRG has to have a contractor's license to put an  
12 application in to Contra Costa County to get these met  
13 towers?

14 A I don't know.

15 Q All right. And in terms of the person, if you --  
16 after -- strike that.

17 After January of 2011 and Mr. Allen was killed --

18 A Uh-huh.

19 Q You had an interest in finding things out about the  
20 met tower and its history. True?

21 A Correct.

22 Q There was a number of you that were looking into  
23 different aspects.

24 A That's correct.

25 Q And you were looking into it in your capacity as one

1 of the co-owners of RRG. True?

2 A True.

3 Q And you knew that your company had had involvement  
4 in the erection of that tower in some fashion. Right?

5 A That's correct.

6 Q So you wanted to get some answers.

7 A That's correct.

8 Q And up to the time of this incident involving  
9 Mr. Allen, other than generally knowing there might be  
10 some met towers up there, did Ari Swiller have anything to  
11 do with the decisionmaking process of installing the met  
12 towers?

13 MR. DONAHUE: Objection. It's vague and ambiguous.  
14 Overbroad.

15 Q BY MR. DREYER: Do you understand my question? And  
16 if you don't, I'm happy to take another crack at it.

17 A Yeah, why don't -- let's take another crack at it.

18 Q Well, before I take a crack at that, let me ask you  
19 this.

20 A Okay.

21 Q In your business at RRG, would it be fair to say,  
22 Mr. Swiller, that you would never want to put anybody at  
23 risk of being killed. True?

24 A That's true.

25 Q Just looking at your background, who you are, and --

1 and that sort of thing, you would never want to do  
2 anything that you would knowingly present some kind of  
3 danger or hazard to somebody else. True?

4 A Yes.

5 Q In terms of what a met tower is and how it's  
6 designed, how it's erected and what the regulations are,  
7 what potential risks are presented by a met tower, did you  
8 have any personal knowledge in your mind before January of  
9 2011 as the potential risk, just in your own mind  
10 thinking, here's what the potential risk would be of a met  
11 tower?

12 A No.

13 Q You had never -- RRG had never installed a met tower  
14 in an agricultural area. True?

15 A True.

16 Q And before Mr. Allen was killed, did anybody that  
17 worked for you come to you and say, "Hey, listen, these  
18 met towers can come with all sorts of warning devices when  
19 you're going to install them in an agricultural area,  
20 orange balls, flashing lights, painted, things of that  
21 nature." Did anybody ever come to you and say, words to  
22 the effect, that's what these met towers have available to  
23 them so that agricultural aviators can be able to see  
24 them?

25 A I don't recall that.



1 Q Okay. Is that the type of thing you would recall?

2 A It might be.

3 Q Mr. Swiller, I don't know you, so that -- that's why  
4 I'm asking you this question. If someone came to you and  
5 said, "Hey, listen, we're going to install a met tower in  
6 an area that's agricultural; and there's the potential  
7 that there would be agricultural aviators flying in the  
8 area. And they fly under 200 feet, and this tower is  
9 60 meters, so it's 197 feet from the base of the tower to  
10 the top of the tower. And the FAA says we don't have to  
11 do anything with these towers if they are under 200 feet.  
12 But we know this is ag area and we know there's going to  
13 be crop dusters in this area, and we have the option of  
14 putting on warning devices." What would your indication  
15 have been to someone asking that of you?

16 MR. DONAHUE: Objection. Calls for speculation.

17 THE WITNESS: Do you want me to speculate?

18 Q BY MR. DREYER: No, I don't want you to speculate.  
19 I want to know, based upon how you operate your  
20 business --

21 A Uh-huh.

22 Q -- and what you do. If you're told of the risk to  
23 an agricultural aviator in an agricultural area and say,  
24 "Do you want us to put safety devices on this tower or do  
25 you want the tower to be gray," what do you think -- and

1 if you don't have an opinion about what you would do, then  
2 that's fine, you can tell me that.

3 MR. DONAHUE: It calls for an opinion and calls  
4 speculation. It ignores the hypotheticals regarding the  
5 County's restrictions. Speculative.

6 Q BY MR. DREYER: You can go ahead and answer.

7 A I mean, if the premise of your question is safety  
8 importance, I mean, the answer is yes.

9 Q Would there be any reason for you, meaning RRG, to  
10 keep the identity of these towers secret?

11 A Absolutely not.

12 Q Any reason for you to conceal their location so that  
13 other potential prospectors for wind would not be aware of  
14 the efforts of RRG?

15 A No.

16 Q From my perspective --

17 A Uh-huh.

18 Q -- not knowing the wind-energy industry, is there a  
19 reason for a company that's in the business you're in,  
20 which prospects for wind in locations, to keep its efforts  
21 under wraps so people don't know about it, like potential  
22 competitors?

23 A No.

24 Q So from your perspective, if there's a safety choice  
25 to make the tower more visible to an agricultural aviator,

1 you'd be comfortable with doing that. True?

2 MR. DONAHUE: Objection. Argumentative. Calls for  
3 speculation.

4 THE WITNESS: Sorry, ask the question again.

5 Q BY MR. DREYER: Sure. You now know that these  
6 towers that are manufactured by NRG can come in two types,  
7 meaning one with no painting on it --

8 A Just to correct that, I don't know that.

9 Q Okay. Well, I'm going to ask you that then. Are  
10 you aware today, as of right now, that NRG manufactures  
11 towers with -- they're painted red and white --

12 A Uh-huh.

13 Q -- so that they're more visibile, as opposed to the  
14 gray structures that were installed on this -- this  
15 particular location where Mr. Allen was killed. Are you  
16 aware that there's those two different types of towers?

17 A I'm not.

18 Q Are you aware that NRG, the manufacturer, sells  
19 orange balls, devices that can be placed on the struts or  
20 the aerial support system for the met towers? Are you  
21 aware of that as of right now?

22 A No.

23 Q Are you aware that there's something called a strobe  
24 light or a warning light -- it's a flashing, red light  
25 that NRG sells with their towers so that an aviator

1 approaching can see the tower.

2 A No.

3 Q So these are things you -- until me just telling you  
4 right now, you were completely unaware of NRG having that?

5 MR. DONAHUE: Aside from what he has been told by  
6 his counsel?

7 MR. DREYER: Clearly.

8 THE WITNESS: Correct.

9 Q BY MR. DREYER: All right. Now, let's put NRG off  
10 to the side for a minute. Okay?

11 Are you aware that those are out there in the --  
12 available? That is, first of all, are you aware of  
13 visibility balls, orange visibility balls, on lines so  
14 that aviators can see them? Are you aware of that  
15 existing before Mr. Allen was killed?

16 A No.

17 Q So you've never been anywhere where you've seen a  
18 line across a canyon or between electrical towers that has  
19 orange balls on it so that aviators can see it?

20 A Not that I recall, no.

21 Q All right. Have you -- before Mr. Allen was killed,  
22 have you ever seen a tower that's painted red and white so  
23 it's more visible?

24 A Yes.

25 Q Okay. And before Mr. Allen was killed, have you

1 ever seen, driving down the road or in an airplane,  
2 anything, that -- where you see a tower that has a  
3 flashing warning light on it?

4 A Yes.

5 Q So you're mindful that those things exist?

6 A I am.

7 Q Before January of 2011, did anybody that works for  
8 you, or even your partner, Mr. Cole Frates, ever explain  
9 to you or tell you that there was an option to put those  
10 kind of warning devices on these particular towers?

11 A I do not recall any discussion about that.

12 Q So that topic never came to -- to Mr. Swiller's  
13 desk, the person who is responsible for the day-to-day  
14 operations of this company. True?

15 A Correct.

16 Q If you were going to -- if someone came to you,  
17 Mr. Swiller, and said, "It's going to cost us maybe 3- or  
18 \$4,000 more to make this tower safer by putting up a  
19 strobe light, and we're in an agricultural area. Do you  
20 have a problem with us spending an extra 3- to \$4,000."

21 If that decision was given to you, knowing that  
22 that's a potential for agricultural pilots flying in and  
23 about the met tower, what would you say?

24 MR. DONAHUE: Objection as to -- when you say "it's  
25 going to cost us," it's vague and ambiguous, it also calls

1 for speculation.

2 Q BY MR. DREYER: Go ahead.

3 A I would not have a problem installing, spending the  
4 money.

5 Q All right. Because to you, I mean, from the  
6 standpoint, spending that kind of sum, 3- or \$4,000,  
7 versus putting an agricultural aviator at risk would be,  
8 no question, which way you would go. True?

9 A Putting anyone at risk is not in the business --  
10 it's not the business I'm in.

11 Q Okay.

12 A Regardless if it's an aviator or anybody.

13 Q You folks at RRG -- I found a document that I want  
14 to share with you that talks about RRG. And in the middle  
15 of this first -- or the end of this first paragraph, it  
16 says, "Currently, the firm owns and/or manages more than  
17 100,000 acres of farmland for the purpose of water  
18 renewable energy and/or carbon development. Mr. Swiller's  
19 responsibility is in managing all aspects of the  
20 business." Do you see that?

21 A I do.

22 Q Is that an accurate statement?

23 A It's pretty close, yeah.

24 Q In terms of back in 2008, did you folks have 100,000  
25 acres of farmland?

1 A I don't know if it was that large, but it was  
2 significant.

3 Q So you've acquired farmland since then. True?

4 A Correct.

5 Q And the Delta Wetlands project, you're still  
6 involved with managing that. Correct?

7 A Correct.

8 Q And you've -- that is a farmland area. True?

9 A It is.

10 Q That's part of this 100,000 acres, I take it?

11 A Correct.

12 MR. DONAHUE: It's a good time for a break?

13 MR. DREYER: Sure. Sure. Absolutely.

14 MR. DONAHUE: All right. Thanks.

15 THE VIDEOGRAPHER: This concludes Video Set No. 1,  
16 we're off the record at 12:09.

17

18 (Break taken.)

19

20 THE VIDEOGRAPHER: We're on the record at 12:22.

21 Today's date is Tuesday, February 18th, 2014. And this

22 begins videocassette No. 2 in the deposition of Ari

23 Swiller in the matter of Karen Allen v. NRG Systems, Inc.

24 Q BY MR. DREYER: Okay. Mr. Swiller, I'm going to  
25 show you Exhibit 5.

(Exhibit 5 marked.)

MR. DREYER: For the record, this was previously marked as Exhibit 2 in Mr. Moran's deposition, and it's Delta I'm letting you folks know so you know, Delta Production 99 through 108.

Q Okay. So, Mr. Swiller, this is a letter to Mr. Braffman from your partner, Mr. Frates. You'll see on page four of this document.

And it's, essentially, the retention of your company, the proposal by WDS, to assist Delta Wetlands Project. And it's the proposal itself; and it's November 1st, 2007.

Did you see this proposal by Mr. Frates before it went out?

A Yes.

Q All right. So this is something the two of you worked on together, vetting the property and making the decision that this is something you want to get engaged in.

A That's correct.

Q Did they approach you? In other words, did Zurich approach you or a representative from Delta Wetlands Properties approach you, or did you approach them?

A We actually met at a meeting attended by Mr. Braffman and Mr. Stephens; and they were impressed and



1 asked us for a proposal to work with them on the project.

2 Q And, initially, it was, essentially, managing the  
3 project, as it relates to water storage.

4 A That's correct.

5 Q And in lay terms, if you will, without going through  
6 all the details of this proposal: What were you, WDS,  
7 doing in terms of this particular piece of property? What  
8 were you offering to them?

9 A Taking over the management of the entitlement of the  
10 asset.

11 Q What does that mean, entitlement of the asset?

12 A In order to store water, you need to get federal,  
13 state and local permits, and also work with objecting  
14 local stakeholders in order for that permitting process.  
15 It's governed by CEQA, the California Environmental  
16 Quality Act, that requires you to get an environmental  
17 impact review or report done to the satisfaction of the --  
18 the standards set within CEQA. And so that's what we  
19 were --

20 They had already been through the process, but had  
21 not managed their local opposition. And they needed to  
22 restart the process. And we saw an opportunity where we  
23 thought we could be helpful.

24 Q And I take it the management deals with --

25 A Sorry.

1 Q No worries -- the management deals with all aspects,  
2 from the political to the entitlements, to putting it out  
3 there for investment, all that sort of thing, is what you  
4 folks do?

5 A Not the latter.

6 Q Okay.

7 A But in terms of the permitting process, yes.

8 Q So what are you going to get -- in terms of this  
9 kind of relationship, what happens? How do you get paid?

10 A We get a retainer, plus we -- in the event of a sale  
11 of the project, above it, Zurich receiving a repayment of  
12 whatever its value in the project is, we participate as a  
13 percentage.

14 Q So it's like a joint venture? And I'm not asking  
15 you legal definition, I'm talking about you're working  
16 with them --

17 A Okay.

18 Q -- you're going to share in the profits of the  
19 property if it's sold?

20 A If we did a good job, correct.

21 Q All right. The whole idea is that you folks will  
22 manage it in such a way that you would add value to the  
23 property.

24 A Correct.

25 Q Right. And that's what generates the value such

1 that someone would want to hire you to give you a piece of  
2 the action, so to speak.

3 A Correct.

4 Q All right. And during the course of this management  
5 at some point in time, did someone come up with a concept  
6 that, "We ought to look at this, not only just from a  
7 water storage standpoint, but look at wind energy"?

8 A Yes.

9 Q Who's the one that came up with that idea?

10 A I don't recall how it generated. But my  
11 recollection is, you know, this was during the increase in  
12 the state's desire for renewable power, the RPS Standard  
13 as it's referred to. And this is a very active wind area.

14 Q You'd never been there.

15 A That's correct.

16 Q But this is what you were led to believe, that it  
17 was an active wind area.

18 A Yes.

19 Q Did you see any data that indicated that, or was it  
20 all being related to you anecdotally?

21 A Prior to hiring Rich Simon to review it, it had been  
22 anecdotal. And then Rich Simon, who, I believe in his  
23 expertise in this, verified that it was indeed an area  
24 with potential.

25 Q And some of the value that goes with this kind of a

1 project is because the federal government and the state  
2 government are encouraging these kind of projects. True?

3 A They help encourage utilities to invest in these  
4 sorts of projects, correct.

5 Q So they can be considerably valuable. True?

6 A They can be, yes.

7 Q Now, I'm going to show you Exhibit 6.

8 (Exhibit 6 marked.)

9 MR. DREYER: See, we've got them trained already,  
10 Sherree.

11 Q This is an e-mail exchange. So the first question I  
12 would ask you -- this is a two-page document, and it's RRG  
13 Production 1537.

14 A Okay.

15 Q This is an e-mail from Mr. Frates of September 4th,  
16 2007 to Mr. Braffman and Mr. Stephens where he attaches a  
17 draft of a Wind Option Agreement, and is talking about  
18 this relative to them -- you folks being the Pine Tree,  
19 involved in the development of that project. But  
20 basically addressing this issue.

21 Do you remember this reach out by Mr. Frates in that  
22 time frame?

23 A I don't.

24 Q Okay.

25 A And I haven't reviewed it.

1 Q All right. So this is not one of the e-mails that  
2 you saw. Correct?

3 A Correct. That's correct.

4 Q Well, let's look at this e-mail.

5 A Okay.

6 Q Do you remember there being, at some point in time,  
7 a Wind Option Agreement that was being provided to Zurich  
8 as to this particular aspect of the property in the  
9 project?

10 A Specifically, no. But it would make sense to  
11 propose this.

12 Q All right. And -- and, again, I don't want you to  
13 guess, I'm just trying to find out what your state of mind  
14 is.

15 A I don't specifically recall it.

16 Q It says in the second page: "We were the original  
17 developers of the Pine Tree Wind Project." Is that an  
18 accurate statement?

19 A That's correct.

20 Q "And this was a project that we sold to see Zilkha,"  
21 Z-I-L-K-H-A, "& Goldman."

22 Are those investment entities?

23 A Yeah. Zilkha Energy & Goldman Sachs.

24 Q All right. "We are also developing a 50 MW" -- is  
25 that megawatts?

1 A That is correct.

2 Q -- "project in our" -- "on our Antelope Valley  
3 project."

4 Is that the Onyx Ranch, or what is that?

5 A Oh, no, that's another project. That's correct.  
6 That's south of the Onyx Ranch outside of Lancaster.

7 Q All right. So this reminds you, of having to look  
8 at this, that there might have been another wind-energy  
9 project you folks had?

10 A Correct.

11 Q Now, that project, the Antelope Valley project, is  
12 that something you started -- RRG started as a wind-energy  
13 project from the beginning?

14 A Yes. But it quickly became a solar project.

15 Q All right. Did you ever install met towers on that  
16 location?

17 A No.

18 Q Why did it go from wind to solar?

19 A I think -- if I -- I don't recall, exactly. My  
20 recollection would have been some advice from someone like  
21 Rich Simon saying that the wind resource in that area is  
22 not consistent with a good project and it turned out to be  
23 an excellent solar resource area.

24 Q In the last paragraph where he says, "I hope our  
25 farming proposal meets with your approval," when he talks

1 about "farming proposal," he's talking about farming the  
2 wind?

3 A I can't speculate. I don't know.

4 Q Is that -- do you folks refer to it as farming?

5 A I -- that's not familiar to me.

6 Q All right. Now, let's look at Exhibit 7.

7 (Exhibit 7 marked.)

8 Q BY MR. DREYER: This was -- has been previously  
9 marked as Exhibit 15. It is RRG-155, 51. And on this  
10 one, Mr. Swiller, it appears you were copied on this  
11 e-mail. It's from --

12 MR. DONAHUE: Excuse me. Is there -- is there a  
13 second one? This is a different exhibit here.

14 MR. DREYER: Let me see. Oh, maybe --

15 MR. DONAHUE: Two different stickers.

16 MR. DREYER: Well, that's the old sticker.

17 MR. DONAHUE: Got it. Sorry about that.

18 MR. DREYER: So you cross that out and mark 7 on it  
19 if you like.

20 MR. DONAHUE: Got it.

21 Q BY MR. DREYER: So this e-mail exchange, I -- we  
22 have to read these from the bottom up. It indicates it's  
23 from Lloyds Frates to Mr. Simon; and I see that you're  
24 copied on it.

25 Is this one of the e-mails you might have seen

1 before today?

2 A That's correct.

3 Q All right. Is -- this appears this is December of  
4 2007. This appears to be the first e-mail that you got  
5 involved in. Or do you remember any correspondence on the  
6 topic that Ari Swiller got before this one?

7 A Not that I recall.

8 Q Okay. Now, Doug Boxer is an employee?

9 A He was a consultant at the time.

10 Q All right.

11 A And is no longer.

12 Q Now, looking at Lloyds' letter, or e-mail; does this  
13 appear to be consistent with you about the time frame of  
14 bringing in Simon to look at this property?

15 A It does.

16 Q And her description of -- of her brother, Cole,  
17 saying - and I'm looking at the bottom sentence of the  
18 second paragraph - "Cole does everything, but has a  
19 expertise in project development and financing."

20 Is that an accurate statement of his role?

21 A Yes.

22 Q Now, she's talking about budgeting. She's talking  
23 about -- she is making the assumption of two met towers,  
24 wind assessment for 18 months of 60 grand in terms of a  
25 budget.



1 Do you have any idea where she got that information,  
2 you know, two met towers, 60 grand for the -- the cost?

3 A Well, I'm just reading up to the -- her previous  
4 statement. I assume we received a budget, relative to  
5 that other project referred to. So I'm speculating that  
6 she based it off that budget, reading this e-mail.

7 Q Before '07, did Lloyds Coles, as far as -- excuse me,  
8 Lloyds Frates, as far as you know, ever develop any kind of  
9 a wind-energy project where met towers were done and  
10 information was evaluated?

11 A Not that I -- not that I remember.

12 Q Next page, second paragraph, she says, "In the  
13 meantime, Jim will determine what we need to do, if  
14 anything, on the permitting front to install met towers,  
15 as well as target some land in the areas of the islands  
16 you mentioned that fit the bill for met towers."

17 And that would be Jim James, the person you said  
18 would generally does do the permitting process?

19 A That's correct.

20 Q That's his role within the company?

21 A Among others, but yeah, primary role, uh-huh.

22 Q And you would have seen this exchange, seeing how  
23 you were copied on it, just as the process is getting  
24 started in bringing Mr. Simon in.

25 A Correct.

1 Q Would he be the one that you were looking to at RRG  
2 to analyze the data on this prospecting, if you will, for  
3 wind energy?

4 A Yes, he would be.

5 Q You personally have no particular experience or  
6 expertise in evaluating wind properties or wind data to  
7 determine whether it's a good place to start the process  
8 of doing a wind farm.

9 A Not -- not enough that I would trust them.

10 Q Right. You're looking to an outside person to  
11 analyze the meteorological data coming from the met tower  
12 and then make some long-term decisions, relative to  
13 whether you want to put the money in for a wind farm, if  
14 you will.

15 A That's correct.

16 Q All right. And as of this time in '07, as far as  
17 you're concerned, Mr. Swiller, you and Mr. Frates, you  
18 really had never done this sort of thing before where you  
19 start from the beginning, where you put in -- put in met  
20 towers and go through the process.

21 A Mr. Frates had done that with Pine Tree.

22 Q Okay. So were you leaning on him and his expertise  
23 and experience in that regard?

24 A Um - for a project like this, we had gone to an  
25 expert like Mr. Simon for the wind, and other experts to

1 help with other parts of it.

2 (Exhibit 8 marked.)

3 Q BY MR. DREYER: All right. Exhibit 8, which for the  
4 record is RRG 13, previously marked as an exhibit in this  
5 case, 18. This is -- and I think that was Mr. Stephens's  
6 deposition. This is a March 18th, 2008 letter signed by  
7 Mr. Stephens where he indicates that for purposes of this  
8 process, and of application to Costa Contra -- excuse me,  
9 Contra Costa, that Cole was the person who's authorized to  
10 act as their agent and sign the permit.

11 Were you aware of this communication, this process,  
12 going on in early '08?

13 A I don't recall.

14 Q All right. Were you involved at all in the -- the  
15 permitting process?

16 A Not directly, no.

17 Q Second page talks about the permit, and the  
18 applicant being Renewable Resources.

19 Did you know personally, Mr. Swiller, that you were  
20 putting in an application to Contra Costa for the met  
21 towers?

22 A I knew we were putting in an application. I don't  
23 recall what the -- you know, the -- what -- how would you  
24 say it, whose name the permit was in. But I do recall  
25 that we did apply for a permit.

1 Q Now, you -- you've talked to us about earlier that  
2 you handle the day-to-day operations, and that's a pretty  
3 broad scope.

4 A That's correct.

5 Q In terms of the content of the permit, were you ever  
6 consulted on the content?

7 A Not that I recall, no.

8 Q All right. Now, if you turn to page 18, RRG 18,  
9 it's down at the bottom corner.

10 A Okay.

11 Q This appears to be Renewable Resources Group  
12 letterhead. Is this -- does that look like your name,  
13 insignia, the way you guys do it?

14 A It does.

15 Q And it talks about the Delta Wetlands meteorological  
16 tower project description, and this is part of the  
17 application. In that first paragraph, I want to -- I want  
18 to look at it with you, "The Renewable Resources Group,  
19 Inc., RRG, is proposing to install a meteorological met  
20 tower on Webb Island in the Sacramento, San Joaquin Delta,  
21 which is owned by its partner, Delta Wetlands Properties.  
22 The land is currently being farmed and assessed for a  
23 potential storage facility. The goal of the tower is to  
24 measure the wind speeds to determine the viability of a  
25 possible future wind-energy project on the site."

1 Did you have anything do with creating the language  
2 in this project overview, as set forth on this document?

3 A I don't recall.

4 Q You -- it would be your state of mind back at that  
5 time, Mr. Swiller, that the land was currently being  
6 farmed. Right?

7 A That's correct.

8 Q Now, the bottom line -- bottom paragraph, rather,  
9 says: "Met tower description." It describes the met  
10 tower.

11 A Uh-huh.

12 Q Now, the company, NRG, in terms of the manufacturer  
13 of these towers; before this project, had you had anything  
14 to do with ever seeing their materials?

15 A Not that I recall, no.

16 Q Did anyone, before January of 2011, bring to your  
17 attention, Mr. Swiller, that on their materials, they talk  
18 about the risk to agricultural aviators these met towers  
19 present?

20 A No.

21 Q And before me telling you - and I don't want  
22 anything Mr. Donahue might have told you or, for that  
23 matter, Charlie -- has anyone ever shown you, before  
24 Mr. Allen was killed, that they have documents that  
25 specifically address that potential risk?

1 A No.

2 Q If someone had shown you a document - I want you to  
3 assume for me there's an NRG document that talks about the  
4 risk to agricultural aviators, and that -- the need for  
5 putting up warnings so that they could see it. And asked  
6 you, you know, knowing that this area is being farmed and  
7 they make this recommendation, and if they asked you  
8 whether you should or shouldn't bear the extra expense for  
9 putting safety measures on these towers, what would you  
10 think, knowing you, what would you have recommended in  
11 that regard?

12 A You mean what we covered earlier?

13 Q Yes.

14 A The answer is the same.

15 Q Which is?

16 A That we -- I would encourage -- I would recommend  
17 that we do that.

18 Q The fact that the manufacturer makes those  
19 recommendations, would that carry some weight with you?

20 A Sure.

21 Q Now, as of this time, you had no idea of what, if  
22 any, restriction or direction the FAA gave about height of  
23 towers, concerning safety devices. True?

24 A That's correct.

25 Q Who made the decision to install a 60-meter tower

1 manufactured by NRG?

2 A My recollection is Mr. Simon advised us of a firm  
3 called Echelon that had installed hundreds of these towers  
4 throughout the country. We leaned on their advice as to  
5 how to go about the process to assist us in that effort.

6 Q You viewed them as being experts in that area?

7 A We did.

8 Q Did you know whether they had a contractor's license  
9 to do installation of towers?

10 A I don't recall that.

11 Q Who would be responsible for interfacing with  
12 Echelon and Mr. Smith?

13 A My recollection is either -- probably Mr. Kaschak.

14 Q Okay. And while you were leaning on them, as you  
15 describe, for their expertise, you recognize that you  
16 still had a responsibility to make decisions on what  
17 you're going to do. True?

18 A Correct.

19 Q Do you personally know what Echelon's knowledge was  
20 of the FAA regulations, or what it provides in terms of  
21 what height restrictions and safety devices, things of  
22 that nature?

23 A I do not.

24 Q Now, are you aware, before Mr. Allen was killed,  
25 that these towers come with a lightning rod that's

1 installed?

2 A I was not.

3 Q At some point in time, before me mentioning that  
4 and, again, putting aside anything Mr. Donahue might have  
5 told you; did you ever become aware that there was a  
6 lightning rod attached to this tower at the time of  
7 Mr. Allen's death?

8 A I was not.

9 Q And you'd never been to the location. So had anyone  
10 ever told you what the topography was in and about the  
11 area of this particular installation of this tower on Webb  
12 Tract?

13 A I know the general topography of the islands, but  
14 nothing specific to where this tower was located.

15 Q Well, do you -- did anyone tell you whether this was  
16 just dead, flat land, or whether it has undulations on it  
17 such that where the base is might be different in terms of  
18 height to surrounding areas?

19 A Not that I recall.

20 Q In terms of making certain this application was  
21 filled out accurately --

22 A Uh-huh.

23 Q -- who was RRG looking to for information?

24 A We were, you know, starting with the County and  
25 their requirements, and then responding to that using the



1 vendors that we had brought on to assist us with the  
2 effort.

3 Q Well, the application was being signed by  
4 Mr. Frates.

5 A Yeah.

6 Q Right?

7 A That's correct.

8 Q And RRG is representing that what we're saying here  
9 is true. Correct?

10 A Correct.

11 Q Would you agree that RRG has to make certain that  
12 this information is truthful?

13 MR. DONAHUE: Objection. It's argumentative. Calls  
14 for a legal conclusion.

15 THE WITNESS: Like I said earlier, we would hire  
16 firms that we believed to have -- that in this case, it  
17 came well recommended by someone we respect in the wind  
18 industry. They have a pretty long track record of  
19 installing these projects.

20 So using their advice is probably how we put that  
21 together. So --

22 Q And are you referring to Mr. Simon and V-BAR?

23 A No. More to Echelon.

24 Q Well, do you know who gave the information that RRG  
25 and Mr. Frates filled out on this application?

1 A Specifically, I do not.

2 Q So Mr. James is the one who actually put the pen to  
3 paper, so to speak, and created the document.

4 MR. DONAHUE: If you know.

5 THE WITNESS: Oh, yeah.

6 MR. DONAHUE: Don't speculate.

7 THE WITNESS: Oh, okay.

8 Q BY MR. DREYER: Who do you think -- who -- who would  
9 you have expected to have done this?

10 A He or Mr. Kaschak.

11 Q So two employees of RRG?

12 A That's correct.

13 Q And where they got the source of information for the  
14 height of the tower, that sort of thing --

15 A My expectation it would come from Echelon.

16 Q Now, let's look at page, down in the bottom, 20,  
17 RRG 20. Top line, it says, "60-meter, 197-feet tower is  
18 lower than the 200 feet threshold set by the FAA as such  
19 meets FAA regulations."

20 That -- again, I've asked you this. That's  
21 something you had no personal knowledge of one way or  
22 another. True?

23 A That's correct.

24 Q And in terms of the source of that representation  
25 being made by RRG, do you know who penned that particular

1 sentence?

2 A I do not.

3 Q And what was their specific source?

4 A I would be speculating.

5 Q I don't want you to.

6 A Then I don't know.

7 Q But you would -- if you wanted to know, you would  
8 talk to one of your two employees, Mr. Kaschak or  
9 Mr. James?

10 A Right. But you asked where -- where the information  
11 came from. They -- that's not something they would come  
12 up with themselves. They would use the third-party  
13 consultants or the vendors that we were bringing on to do  
14 the installation.

15 Q Do you know that?

16 A Yes.

17 Q Okay. You've indicated that Mr. James does a number  
18 of applications for you. Right?

19 A Correct.

20 Q It's his job to make sure that the application is  
21 accurate. True?

22 A That's correct.

23 Q And while he might be getting information, you would  
24 expect him to check the work to make sure it's accurate.  
25 True?

1 A I would expect that he would -- that his expectation  
2 of these third parties who have done hundreds of these  
3 would be accurate in assisting him in filling out the  
4 application, as I assume they have done in numerous  
5 counties and numerous states, given their track record of  
6 having installed --

7 Q Did you ever talk to Mr. James or Mr. Kaschak as to  
8 what the source of information was that they put into this  
9 application to the County that this tower was only  
10 60 meters tall?

11 A I don't recall any conversation around that.

12 Q Do you know whether the FAA considers a seven-foot  
13 lightning rod put on top of a 60-meter tower to be in  
14 compliance with this FAA regulation of a 200-foot  
15 threshold?

16 A I do not.

17 Q Do you know if the manufacturer, NRG, is mindful of  
18 the fact that they're selling a seven-foot lightning rod  
19 along with the 60-meter tower?

20 MS. VAN DER PUTTEN: Objection. Calls speculation.

21 MR. DONAHUE: Join.

22 Q BY MR. DREYER: Do you know?

23 A I don't.

24 Q Now, there's a sentence here right above "tower."  
25 It says "frequent site visits will be made to ensure the

1 integrity of the tower."

2 Who was going to be making these frequent visits, as  
3 far as you're aware? If you know.

4 A I don't recall.

5 Q Turn to the next page. Before I get you there --

6 A Uh-huh.

7 Q -- as you know the operation of your business --

8 A Yeah.

9 Q -- understanding your day-to-day; you're not going  
10 to be doing it.

11 A Correct.

12 Q Who were you -- who did you believe for RRG was  
13 going to have this frequent site visit responsibility?

14 A My expectation was it probably would have been  
15 Mr. Forkel, because he was the day-to-day manager of the  
16 Delta Wetlands project, and he's based in that area.

17 Q Okay. So that would have been your expectation that  
18 he would be serving in that capacity for RRG as to the  
19 frequent site visits?

20 A Or for Delta Wetlands project, more generally. He's  
21 not an employee of RRG.

22 Q Well, that's what I'm looking for. As far as you're  
23 concerned, was there an RRG employee that was going to be  
24 doing frequent site visits to ensure the integrity of the  
25 tower?

1 A In terms of the project, you know, Mr. James and  
2 Mr. Kaschak were up there specifically to the integrity of  
3 the tower. I don't know what level -- I don't recall what  
4 level inspection they were going to be doing.

5 Q Do you know Mr. Kaschak to have any expertise in the  
6 integrity of the met towers and their stability?

7 A I do not.

8 Q Did you become aware, at some point in time, that  
9 this met tower was malfunctioning and not providing any  
10 data?

11 A I did not.

12 Q Did anybody ever report to you that this tower was  
13 there and not providing any data for any period of time?

14 A No.

15 Q Were you made aware that this tower was only going  
16 to be up for a year?

17 A Not that I recall, no.

18 Q Let's look at the next page, 21. It talks about  
19 under "timing," that they'll install the tower, March of  
20 2008. "In order to maximize data collection, the tower  
21 will be in place for at least one calendar year. After  
22 which time, it will be determined whether or not it's  
23 viable to pursue a wind-energy project at this location."

24 Were you aware of that?

25 A Not specifically. But, you know, you tend to

1 measure wind on a year cycle.

2 Q All right. And did you know that back at this time?

3 A I did.

4 Q Were you aware that this representation was made in  
5 the application that we're going have it up for a year,  
6 look at our data and make a decision?

7 A I don't recall it.

8 Q Do you know what bases of information James or  
9 Kaschak put this statement in the application?

10 A Like I stated earlier, you tend to measure wind for  
11 a year.

12 Q Who was going to measure the wind?

13 A The tower would.

14 Q Understood. But who's going to interpret the data?

15 A Probably Mr. Simon on our behalf.

16 Q All right. And so he's not an employee, but a  
17 consultant. True?

18 A That's correct.

19 Q And who was the person that Mr. Simon was going  
20 reveal this information in terms of his interpretation?

21 A Ms. Frates, myself, Mr. Kaschak.

22 Q Okay. So all of you would be involved in that  
23 discussion?

24 A At some point, correct.

25 Q Did you keep any personal notes, Mr. Swiller, about

1 this project, and information that was going on, like a  
2 log or a journal or something?

3 A No.

4 Q So you knew that the tower got installed at one  
5 point in time. Correct?

6 A Correct.

7 Q Did you ever see the permit itself?

8 A I don't recall seeing it, no.

9 Q Do you remember anyone ever telling you the permit  
10 calls for the tower to be up for a year and then be taken  
11 down?

12 A I do not recall that.

13 Q Did you know that part of the budget included the  
14 takedown expense of the met tower?

15 A I don't recall that.

16 Q Would you agree with me there would be no reason for  
17 RRG to have this tower be, essentially, unmarked; there's  
18 no benefit to you to have it unmarked. True?

19 A That's true.

20 Q There's no benefit to RRG to have no warning strobe  
21 light on it. True?

22 A That's correct.

23 Q No benefit to you to not have these visibility balls  
24 on the guy lines. Fair?

25 A That's fair.



1 Q Did -- as you sit here today, do you know when the  
2 tower was actually installed?

3 A Just from what I've read now, I don't recall the  
4 exact date of its installation.

5 Q Okay. If I were to say that it got installed  
6 sometime in April of '09, does that sound about right?

7 A It does.

8 Q By the end of April of 2010, some nine months before  
9 Mr. Allen was killed, did anybody come to you and tell you  
10 what the meteorologic data was regarding wind from that  
11 tower?

12 A What was the date you gave me?

13 Q In April of 2010.

14 A I don't recall specific discussions and timing  
15 related to it, but I do recall being told that there was  
16 encouraging wind in the area.

17 Q Okay. Did you get a memo of that nature?

18 A Not that I recall.

19 Q Did someone tell you that?

20 A I'm speculating now, because I don't recall the  
21 exact. But my general knowledge is that we were informed  
22 that there was good wind up there.

23 Q All right. Now, I appreciate you telling me your  
24 recollection generally is that you were informed there was  
25 good wind.

1 A Yes.

2 Q Do you have a name of any source for this, there's  
3 good wind?

4 A I don't.

5 Q Did you see any written documents or report that  
6 analyzed the wind?

7 A Not that I recall, no.

8 Q And did you get anything from any source that  
9 indicated what was the basis of this statement, there's,  
10 quote/unquote, good wind?

11 A I don't recall a document, no.

12 Q And "good wind" meaning good -- good enough wind to  
13 justify developing a wind farming project up there?

14 A To justify continuing to -- there are many stages to  
15 it, but taking it to a further stage of development.

16 Q What would be the next stage?

17 A Putting together a budget to determine what the  
18 permitting costs would be, and what the permitting process  
19 would be.

20 Q Did that budget ever get created, as far as you  
21 know?

22 A Not that I recall.

23 Q All right. So as of -- if the tower was erected on  
24 or about April 18th, 2009, and by the end of April, 2010,  
25 that would be the one-year cycle that you would need to

1 make an assessment. Correct?

2 A Yes.

3 Q To make the decision whether or not to go to the  
4 next step?

5 A Uh-huh.

6 Q Is that true?

7 A The -- the timing sounds about right, yes.

8 Q Now, as far as you're concerned, Mr. Swiller, did  
9 anybody come to you, let's say in the three or four  
10 months, you know, by the summer of 2010, and discuss with  
11 you specifically whether you should go to the next step on  
12 this project?

13 A I don't recall that discussion.

14 Q Did -- I mean I'm certain you're busy doing lots of  
15 different things.

16 A Uh-huh.

17 Q Do you have some methodology that you, as a, you  
18 know, partner in this project, follow through and make  
19 certain that you follow up and see what's going on on  
20 projects?

21 A Yes.

22 Q Okay. Is there a reason why you then didn't check  
23 into this project, at least by the summer of 2010 to  
24 evaluate what you folks should be doing?

25 A I don't think I'm saying I didn't. I just don't

1 recall specific conversation around it. And I don't  
2 recall the timing. So I -- you know, I have general  
3 recollections, but nothing specific to dates or specific  
4 memos.

5 Q And you have no documents to establish that you did  
6 anything after April of 2010. True?

7 A You have all the documents I have, so -- I didn't  
8 see anything to that effect.

9 Q Mr. Swiller, you knew we were going to come to this  
10 deposition today. Correct?

11 A Correct.

12 Q You knew this is a case where we are -- the family  
13 is alleging that your company played a role in the death  
14 of Mr. Allen. Right?

15 A Correct.

16 Q It's an upsetting allegation to you. True?

17 A That would be true.

18 Q And you've never had a project where someone has  
19 been killed on it before. Correct?

20 A That is correct.

21 Q And RRG has never been sued in a situation like this  
22 before where there's an allegation that your company  
23 didn't do things the right way and, as a result, someone  
24 died? You've never been accused of that before. Fair?

25 A That is fair.

1 Q So it's a serious situation for you. True?

2 A That is true.

3 Q And one of the reasons you read all those e-mails is  
4 because you wanted to refresh your recollection about what  
5 happened back in that time frame and -- and what you knew.  
6 Right?

7 A That's correct.

8 Q And so when you set about that task of reviewing  
9 materials, did you find any documents that recorded what  
10 you, Ari Swiller, and Cole Frates talked about or did  
11 after April, 2010, about this project?

12 MR. DONAHUE: Vague and ambiguous. Overbroad, about  
13 the project.

14 Q BY MR. DREYER: Go ahead.

15 A Can you ask the question again?

16 Q BY MR. DREYER: Did you --

17 A Uh-huh.

18 Q -- find any documents that recorded what you and  
19 Mr. Frates were thinking about, or considering, relative  
20 to this wind-energy project after April of 2010?

21 A I did not find any documents to that fact.

22 Q You would agree with me, after April 2010, if that  
23 tower had been up a year, that that's the time to start  
24 looking at what are we going to do with this property and  
25 whether we're going to take it to the next level. True?

1 A About that time, correct.

2 Q Now, did you know whether the tower was  
3 malfunctioning in that time frame?

4 MR. DONAHUE: Objection. Asked and answered.

5 Q BY MR. DREYER: Specifically, April of 2010.

6 A I don't have a recollection of that.

7 Q Between April of 2010 and the day that Mr. Allen was  
8 killed, do you know whether that tower was providing any  
9 kind of wind-energy information to whomever was involved  
10 in this project?

11 A I don't recall. I don't know the timing of when  
12 that stopped happening.

13 Q Who -- understanding you're busy in your day-to-day  
14 operations --

15 A Yup.

16 Q -- who were you looking to, Mr. Swiller, to monitor  
17 this project as to its potential?

18 A For the wind?

19 Q Yes.

20 A Mr. Kaschak.

21 Q And between April of 2010 and the end of 2010, did  
22 Mr. Kaschak ever pick up the phone and call you, that you  
23 recall, to give you a report on the status of this met  
24 tower and the information it was producing?

25 A I don't recall a specific conversation related to

1 that.

2 Q In fact, between April of 2010 and the end of 2010,  
3 this project never came across your table such that you  
4 had to make decisions as a partner in RRG as to whether  
5 you move forward or not. True?

6 A I don't know about that, no.

7 Q Well, did it?

8 A At some point, and I don't recall the exact time, we  
9 decided it was more important for the project's general  
10 basis, which was the water project, to forego development  
11 of the wind. But I don't recall the time of that.

12 Q Do you remember when that was?

13 A No.

14 Q Was that before or after Mr. Allen was killed?

15 A My recollection would be before Mr. Allen was  
16 killed.

17 Q So if you'd made the decision that you were going to  
18 forego the wind project, there would be no need to have  
19 the tower. True?

20 A That's correct.

21 Q And understanding this decision was made before  
22 Mr. Allen was killed --

23 A I'm not sure of that.

24 Q Well, based upon what you've just told me --

25 A Correct.

1 Q -- you're -- you're -- you're --

2 A But my recollection is I'm -- now that I'm thinking  
3 about it, I'm not sure when that decision was made.

4 Q Well, if the decision was made before Mr. Allen was  
5 killed, the tower clearly shouldn't be up. True?

6 MR. DONAHUE: Objection. It's argumentative. Lacks  
7 facts not in evidence.

8 Q BY MR. DREYER: Is that a fair statement?

9 A If it's not receiving data, correct.

10 Q And who -- understanding you got vendors and other  
11 people that you're dealing with, who would you be looking  
12 to within RRG to monitor that tower as to whether it's  
13 producing data or not?

14 A As I stated earlier, Mr. Kaschak.

15 Q Now, I'm going to show you what is another document  
16 we got, and it's marked as Exhibit 9, and it's RRG 1835.

17 (Exhibit 9 marked.)

18 Q BY MR. DREYER: And this generally talks about the  
19 project. And I want to focus on the -- the last  
20 paragraph. This is the same language that's in the  
21 application itself. So looking at this document, this  
22 one-page document, do you know who authored this one-page  
23 document?

24 A No, I do not.

25 Q If you wanted to find out who authored it, you would



1 take to Kaschak?

2 A I don't know that we produced this document. I --  
3 is this the only page?

4 Q This is the page that was produced by your -- your  
5 counsel, page 1835 in the production. I don't know where  
6 it came from. I'm just wondering whether it's -- it's  
7 obviously in your file material. So I'm wondering who --  
8 if you wanted to know who created it, would you go to  
9 Kaschak to ask him?

10 A I might start with him, yes.

11 Q Now, I'm going to show you Exhibit 10.

12 (Exhibit 10 marked.)

13 Q BY MR. DREYER: This is RRG 1501 to 1508. And this  
14 is the Master Contract Agreement between Renewable  
15 Resources, and it's dated December 10th. And I believe  
16 this is the Master Contract entered into between yourself  
17 and with PDC Corporation. This is the company that was  
18 involved in the installation.

19 Did you have anything to do with the retention of  
20 that company?

21 A Not that I recall, no.

22 Q That's -- on page 05, that's Mr. Frates' signature?

23 A Yes.

24 Q Do you know what Mr. Frates did to select this  
25 company?

1 A I don't recall.

2 Q Do you know whether this company has a contractor's  
3 license?

4 A I've since become aware that they do not.

5 Q Okay. Well, let's -- I don't want you to tell me  
6 anything that -- that you may have found through counsel.

7 Let's go back to the time of when they were hired.

8 Did RRG know that they did not have a contractor's  
9 license?

10 MS. KNUDTSON: Assumes facts not in evidence.

11 MR. DONAHUE: Yeah, it assumes fact not in evidence.

12 And it does invade the attorney-client privilege  
13 conversation.

14 Q BY MR. DREYER: Well, let me ask it to you this way:  
15 Before Mr. Allen was killed in January of 2011, did you  
16 have any personal knowledge, one way or another, whether  
17 Shah & Associates, or PDC, had a contractor's license?

18 A No.

19 Q I'll show you Exhibit 11.

20 (Exhibit 11 marked.)

21 Q BY MR. DREYER: Now, this is an e-mail exchange, and  
22 it is dated -- I think we have to -- it's two e-mails.

23 It's an e-mail in -- on March 8th, 2010, an exchange on  
24 that date; and the last page is April 21st, 2010. Now --

25 MS. VAN DER PUTTEN: I'm sorry. Roger, do you have

1 some Bates numbers on that?

2 MR. DREYER: Yeah, I sure do. RRG 1960, 61 and 62.

3 Q So looking at it, just working down from the --  
4 let's see the best way to do this. Let's look at the  
5 e-mail that starts at the bottom of March 7th at 9:54 a.m.  
6 This is from Mr. James. And it says, "We're getting beat  
7 up for the DW overall budget of which wind is a small  
8 part. It looks like the last two quarterly invoices have  
9 been for \$275. This April should wrap up a full year of  
10 monitoring. For the 2010 DW budget, I was thinking about  
11 including only \$1,000 for collection of the last data, but  
12 no further assessment.

13 Am I missing any immediate, important and  
14 unavoidable costs?"

15 Now, is Mr. James -- one of his roles is dealing  
16 with the budget on projects?

17 A On -- on the Delta Wetlands project, yes.

18 Q All right. And then we have Ms. Frates saying,  
19 "It's \$1,250 a quarter, don't we need to budget \$5,000 for  
20 the year?" And Kaschak writing back, "Any chance we could  
21 make it \$1,500? V-BAR rates went up.

22 It's been running -- "

23 A Sorry, you're reading --

24 Q You're right, I've misread this.

25 A Okay.

1 Q We do Kaschak first at 9:11 --

2 A Okay.

3 Q -- who responds to Mr. James, where he asks for  
4 \$1,500 because of V-BAR's rates; and Lloyds Frates  
5 responding what she thinks should be done.

6 A Correct.

7 Q Were you aware of this conversation taking place in  
8 that time frame about the budget?

9 A Not specific to the wind, no.

10 Q Okay. And, again, I'm -- thank you for that  
11 clarification. I talking just about the wind.

12 A No.

13 Q Then we have an e-mail at the top on March 8th from  
14 Mr. Kaschak which says, "April 15 marks a full year the  
15 tower has been up." And this is 2010.

16 Given there were one to two weeks in which the  
17 installer had to go out to reactivate the memory cards, so  
18 we should have the final quarterly report in May. I'll  
19 check with Rich Simon to try and narrow down the window by  
20 which we have the final quarterly report."

21 And that's consistent with your sense that you need  
22 about a year to make the assessment.

23 A That's correct.

24 Q And then you folks would be looking to Simon to  
25 interpret the data for you.

1 A That's correct.

2 Q Now, we have -- if you turn to the last page, which  
3 is 1962. There's an e-mail of April 17th from Simon, and  
4 it says, "Here is our Delta update with effectively one  
5 full year of data. These sites look very promising given  
6 the current California market. Let us know your plans."

7 Do you see that?

8 A I do.

9 Q Does that refresh your recollection that this  
10 concept of good wind that we talked about earlier came  
11 from Mr. Simon?

12 A It does.

13 Q And as you sit here today, do you know what, if  
14 anything, RRG did, in terms of responding to Mr. Simon  
15 about what your plans were?

16 A I'm just reading up the chain here. But I don't  
17 recall the conversation with Mr. Simon and I don't recall  
18 being part of it.

19 Q Okay. Let's look at Exhibit 12.

20 (Exhibit 12 marked.)

21 Q BY MR. DREYER: And now, this whole idea of the wind  
22 project --

23 A Yes.

24 Q -- if it was successful, it would add value to the  
25 Delta Wetlands project. True?

1 A That is true.

2 Q Be an income producer if it was a wind farm and you  
3 could sell the energy to the appropriate entities. Right?

4 A Correct.

5 Q Which, again, goes back to the issue that we talked  
6 about earlier. Your value, meaning RRG's value, is  
7 bringing value to the property by your management of it  
8 such that if it ultimately gets sold, money can be made in  
9 that regard. Fair?

10 A That's correct.

11 Q And in the meantime, you're getting paid by Delta  
12 Wetlands to provide the resources that your firm is  
13 providing in terms of management. True?

14 A Correct.

15 Q Okay. So Exhibit 12, again, is an e-mail exchange.  
16 And here's what I want to look at. This is in April  
17 of 2010. And there's an e-mail on the second page that  
18 apparently follows the Simon e-mail from Lloys, and then  
19 Mike Kaschak. And there's an e-mail specifically on  
20 April 21st at 8:35 p.m. where Kaschak says, "Okay. Ari  
21 met with a group called Ghigos a week ago." Is that the  
22 correct pronunciation?

23 A I -- I don't recall the firm or the pronunciation.

24 Q Okay.

25 A So we'll go with your --

1 Q G-H-I-G-O-S. "They are interested in wind and solar  
2 properties in California, so we may want to see if they'd  
3 be interested in Delta wind. No?" And that's from  
4 Mr. Kaschak.

5 Do you remember Mr. Kaschak ever addressing this  
6 topic with you about Ghigos?

7 A I do not.

8 Q Do you remember what Ghigos is?

9 A I do not.

10 Q Do you remember, back -- I accept your answers,  
11 Mr. Swiller. But as a lawyer, we kind of sometimes ask  
12 the same question six times just to see if we can refresh  
13 your recollection.

14 A Sure.

15 Q As you focus on 2010, do you remember ever dealing  
16 with any company or entity that was looking to invest in  
17 solar properties or wind properties called that name?

18 A I don't recall that name.

19 Q Would that be one of the things, though, that you do  
20 as you're out prospecting for investors and people that  
21 might be interested in putting money or buying?

22 A Yes.

23 Q Okay. So the fact that Kaschak says that doesn't  
24 surprise you. True?

25 A True.

1 Q You just don't remember the entity.

2 A Correct.

3 Q Now, there's a Lloys Frates memo, or e-mail, rather,  
4 of April 22nd. And I -- I don't know whether that's 10:00  
5 in the morning. But to -- you're not on this list, but it  
6 says, "I'm not sure what is the approach we want to take.  
7 We may want to develop it ourselves. We need to meet and  
8 discuss."

9 Now, do you remember in that time frame where Lloys  
10 Frates -- and I'm giving this to you to see if I can  
11 refresh your recollection --

12 A Uh-huh.

13 Q -- where you got contacted by her where she's  
14 talking about, "Hey, we need to make a decision and assess  
15 this project."

16 Do you remember that at all?

17 A I don't recall that specific outreach, no.

18 Q Okay. I'm going to show you Exhibit 13.

19 (Exhibit 13 marked.)

20 THE WITNESS: Okay.

21 Q BY MR. DREYER: This is RRG-1956. This is an e-mail  
22 from Kaschak to Dave. And I think it's Dave Dorrance, if  
23 you look at the bottom. And Dorrance at that time was an  
24 employee. Correct?

25 A Correct.



1 Q His role was?

2 A Primarily, water development.

3 Q Water?

4 A Water assets.

5 Q So we have an e-mail from him of November 30th, 2009  
6 at 10:16 a.m., and it says, "No slide," dash, "just text  
7 in an e-mail for me. Assume eastern bankers with a vague  
8 notion that they want renewable with no experience and no  
9 California knowledge."

10 Is Dorrance one of the -- Dorrance one of the people  
11 to be out prospecting for investors?

12 A No. Not usually, no.

13 Q Do you have a sense of what he's referring to there?

14 A My -- my sense of the timing is there was a lot of  
15 interest from a lot of different entities getting involved  
16 in some form or fashion in California renewables.

17 So from a very general perspective, we received a  
18 lot of interest in a lot of our project development  
19 because there were tax credits, there were other things  
20 that made it interesting to different investors to be a  
21 part of. Specifically to Dave's eastern bankers, who he's  
22 referring to, I can't recall exactly.

23 Q Now, this e-mail, I got this kind of, I apologize,  
24 out of order with the previous e-mail exhibit that we  
25 talked about.

1           So this is the end of 2009, so about three, four  
2 months before the one-year cycle. And he's talking about  
3 the viability of a hundred megawatt wind-energy project on  
4 the islands.

5       A           Uh-huh.

6       Q           He talks about the two towers. And I'm just  
7 paraphrasing it. And in the last sentence of that second  
8 paragraph, says: "If, after a year, it is determined that  
9 a wind-to-energy project is viable, the towers will remain  
10 to continue gathering wind data."

11      A           Uh-huh.

12      Q           Now, at no point in time do you recall, Mr. Swiller,  
13 after April of 2010, coming to the conclusion that the  
14 wind-to-energy project was viable. True?

15      A           The project's viable. I just don't know that we  
16 were going to pursue it.

17      Q           Okay. Well, here's my question to you.

18      A           Okay.

19      Q           After April of 2010 --

20      A           Uh-huh.

21      Q           -- and before Mr. Allen was killed --

22      A           Uh-huh.

23      Q           -- at no point in time did you folks make a  
24 determination that you were going to pursue the  
25 wind-to-energy project. True?

1 A No, I don't recall. Right.

2 Q Now, it says, next paragraph, "Permitting of a  
3 project may take an additional three years with the  
4 construction taking an additional year."

5 That certainly was something that you folks never  
6 said you were going to do. True?

7 A I don't follow your question.

8 Q Your company, RRG, never made a determination that,  
9 "We're going to permit the project for another three  
10 years, put in an application for permitting for three  
11 years of construction," that's something that you folks  
12 never did. True?

13 MR. DONAHUE: Let me object. Assumes facts not in  
14 evidence that they could do that on their own without the  
15 owner.

16 THE WITNESS: Yeah, I'm not sure I understand the  
17 question.

18 Q BY MR. DREYER: Well, after April of 2010 --

19 A Yeah.

20 Q -- RRG never took any steps to recommend or enlist  
21 anybody to start the process of permitting the project for  
22 construction. True?

23 A Correct. We did not go further with our permitting.  
24 Correct.

25 Q Next paragraph, "At this point, without knowing the

1 exact size of a project, I think we can simply state the  
2 development of a project will allow RRG and its partner to  
3 realize a multiple of equity invested in the property."

4 Do you see that?

5 A I do.

6 Q Who is he referring to as the partner?

7 A I'll be speculating. Would you like me to do that?

8 Q Well, what I'd like is your best understanding as  
9 you interpret what your employee is saying there in terms  
10 of referencing a partner.

11 A My speculation would be Delta Wetlands Properties.

12 Q It says here, "I think that Jim and Lloys should  
13 weigh in on permitting the construction to make sure it's  
14 accurate."

15 Do you remember Kaschak ever addressing the topic to  
16 you of construction on this project?

17 A No.

18 Q Okay. Let me show you Exhibit 14.

19 (Exhibit 14 marked.)

20 Q BY MR. DREYER: This is an e-mail from Simon, and  
21 it's the Delta Quarterly Project, to Mike and Lloys.

22 This is RRG 1970. It's dated October 20, 2010.  
23 It's an update with the third quarter added, predictive  
24 wind regime hasn't changed significantly. Next paragraph  
25 is the one I'm interested in.

1 "We do want to draw your attention specifically to  
2 the fact that both towers now have malfunctioning 60M  
3 anemometers. These are key sensors, as you know. Even  
4 though we have a redundant sensor at that level. We would  
5 strongly urge you to have these towers taken down and the  
6 sensors replaced.

7 If you agree to do this, we can help coordinate it.  
8 Cheers. What is the status of the project? Shall we just  
9 continue what we've been doing? It does seem like a very  
10 attractive project location given the California energy  
11 prices."

12 Now, did you ever see this e-mail?

13 A Not that I recall, no.

14 Q In preparation for today, did you ever see this  
15 e-mail?

16 A No.

17 Q Me showing this e-mail to you, is this the first  
18 time you became aware that Mike and Lloys both were  
19 informed by Richard Simon in October of 2010, some three  
20 months before Mr. Allen was killed, that the towers were  
21 malfunctioning and that he was recommending they be taken  
22 down?

23 A Well, I think he's saying something different than  
24 you represented.

25 Q All right. Well, let's go through it.

1 A Okay.

2 Q Was this is the first time you became aware, some  
3 three months before Mr. Allen was killed, that your people  
4 at RRG, Mike and Lloys, were informed that there was a  
5 malfunctioning component of these towers?

6 A Yes.

7 Q And was this the first time when you see this now  
8 that he strongly urged them, back in October of 2010, to  
9 have the towers taken down and sensors replaced?

10 A This is -- yes.

11 Q Is that the type of thing, Mr. Swiller,  
12 understanding your role with this company, that you would  
13 expect your employees to notify you of?

14 A If there was going to be a continued operation of  
15 this site, yes.

16 Q Okay. How about -- at this point in time, as of  
17 October of 2010, as far as your recollection is concerned,  
18 no decision had been made to make this an ongoing site.

19 True?

20 A That's correct.

21 Q If your people at RRG knew that you had  
22 malfunctioning sensors, such that the consultant was  
23 recommending you take the towers down to get them fixed --

24 A Yes.

25 Q -- is that the type of thing you would expect to be

1 told, understanding your role within RRG?

2 A Our interest was in creating a development here. If  
3 the towers were not functioning to that standard, then a  
4 decision had to be made to replace the sensors.

5 Q Did anybody come to you and talk to you about that?

6 A Not that I recall.

7 Q So if someone came to you, let's assume in October  
8 Lloys or Mike picked up the phone and called the person  
9 who's responsible for the day-to-day operations for RRG  
10 and said, "The towers are still up."

11 A Uh-huh.

12 Q "It's been six months since our one-year cycle.  
13 Sensors are malfunctioning, we're not getting data" --

14 A If we can just step back for a sec, just so we're  
15 clear.

16 Q Sure.

17 A While a year gives you a snapshot of what it looks  
18 like, if you have two years, that's more valuable. If you  
19 have three years, that's even more valuable. So I don't  
20 want to say that there's a start and end magic to a year.  
21 The longer you have the tower and met readings, the more  
22 valuable that information is that you can justify.

23 Q And I appreciate that answer.

24 A Okay. Good.

25 Q Have you ever seen the application in terms of what

1 the County said you're supposed to do with this tower  
2 after a year?

3 A I don't recall seeing the application, no.

4 Q Are you aware of whether the County gave any  
5 instructions to RRG about taking down the tower after a  
6 year?

7 A I'm not aware of that.

8 Q So let's go back to my hypothetical.

9 A Okay.

10 Q From your standpoint, your recollection, you don't  
11 remember Lloys or -- or Mike ever calling you and giving  
12 you the information that's contained on that e-mail.

13 True?

14 A That's correct.

15 Q I want you to assume for me that they did call you  
16 in October of 2010 and reported this to you. If you had  
17 made a decision, "We're not going to go forward with this  
18 project, you know, we're going to continue do our water  
19 storage but we're not going to pursue the wind energy" --

20 A Uh-huh.

21 Q -- "because the data in our -- our decision and our  
22 partners, the project, the Delta Wetlands project doesn't  
23 want to do it." At that point in time, you tell them,  
24 "Okay. Well, we're not going to do the wind-to-energy  
25 project. You got malfunctioning sensors, let's take them



1 down." True?

2 MR. DONAHUE: Calls for speculation.

3 THE WITNESS: What I would say is what we would have  
4 to value is if there was some value in selling that wind  
5 information. So if there was, we thought, more value to a  
6 third party coming in and saying, "We'll pay for the data  
7 you have and the continuation of the data," it would be  
8 part of the decision we'd make.

9 But I can't say definitively what that decision is.  
10 I can't speculate.

11 Q Well, you don't recall that conversation ever even  
12 happening. True?

13 A That's correct.

14 Q Let's look at Exhibit 15.

15 (Exhibit 15 marked.)

16 Q BY MR. DREYER: This was 27 to Forkel's depo, and it  
17 is RRG 1269 to RRG 1342. Specifically, I'd like you to  
18 turn to page, down at the bottom there, Mr. Swiller, 1322.  
19 Now, this document is dated December 31st, 2010. You can  
20 see that at the front.

21 A Yes.

22 Q And this deals with Webb Tract, which is where the  
23 tower is. And I want to specifically look at this  
24 paragraph, it says, "Wind Energy Production Potential of  
25 the subject --"

1 A Okay.

2 Q Now, in preparation for today, did you look at this  
3 document, the appraisal?

4 A No, I did not.

5 Q It talks about -- well, strike that. Let's just  
6 read it. "In order to analyze the wind energy production  
7 potential of the subject, we evaluated NREL Online  
8 Resources, as well as V-BAR, LLC, data from Webb Tract and  
9 Bouldin Island test stations. Based on this available  
10 data, it appears that the Webb Tract and Bouldin Islands  
11 have what the NREL classifies as marginal, Bouldin Island,  
12 to fair, Webb Tract, wind power density," and then it  
13 gives the speeds, "at about 50 to 80 meters above ground.  
14 The remaining project islands are unrated by NREL,"  
15 meaning below the marginal level.

16 "Due to the marginal to fair nature of the subjects'  
17 wind resources on only two of the project islands, and the  
18 fact that a wind project would likely face the same costs  
19 and hurdles as any potential, previously discussed solar  
20 project, it's unlikely that a wind power development would  
21 provide the highest return to the property."

22 Now, as of December of 2010, were you aware of this  
23 appraisal report and that conclusion?

24 A I was not. I was aware of the appraisal, I don't  
25 recall the conclusion. I probably read it at the time but

1 don't have a recollection of it.

2 Q That would be your practice, wouldn't it?

3 A It would.

4 Q And what's stated there is consistent with your  
5 recollection of the potential wind-energy project. True?

6 A Um - I think I would give it a little higher reading  
7 of the wind potential, based on Mr. Simon's analysis.

8 Q Well, Mr. Simon would benefit, would he not, if you  
9 folks did a wind project?

10 A Not necessarily.

11 Q Well, he'd get paid to continue to consult. True?

12 A That's fair.

13 Q And he'd be involved in the nature of the project  
14 itself after it got created. True?

15 A No.

16 Q Let's look at page 1341. And the first full,  
17 paragraph and the first line says, "It appears the two  
18 subject islands have marginal to fair wind power  
19 densities." You see that. Right?

20 A I do.

21 Q And then it talks about the area; and I want to look  
22 at the last sentence. "The bottom line is that it is  
23 impossible to say how a wind power development would be  
24 received without the owner actually exploring the legal  
25 implications of such use, specifically as it pertains to

1 the subject property."

2 Did you talk with the property owner at all about  
3 the wind-energy project in that time frame?

4 A You mean to Delta Wetlands about the --

5 Q Yes.

6 A I'm sure I had conversations about it.

7 Q Okay. Tell me about those conversations. Who do  
8 you remember talking to?

9 A I can't recall anyone specific or specific  
10 conversations. But, you know, to Jim's e-mail, if there  
11 are budget issues related to the project, line items are  
12 often discussed. I can't recall specific conversations  
13 about wind.

14 Q Do you have any documentation at all that you ever  
15 discussed this with the owners of the Delta Wetlands  
16 project?

17 MR. DONAHUE: When you say "this," are you just  
18 talking about the wind project in general?

19 MR. DREYER: The wind project, specifically in going  
20 forward on the wind project.

21 THE WITNESS: I don't recall.

22 Q BY MR. DREYER: Okay. Have you ever seen any  
23 documents that show that you did?

24 A No.

25 Q As you sit here today, there's nothing you could

1 review then that would refresh your recollection about  
2 what conversations, if any, happened then. Fair?

3 A Correct.

4 Q And in terms of who you talked to, if anybody, you  
5 don't remember. Right?

6 A Correct.

7 Q And in terms of what recommendations you made, if  
8 any, you don't remember that either. True?

9 A Correct.

10 Q Now, we're talking about a rather significant  
11 financial entity, are we not, in terms of potential?

12 A You mean the wind project?

13 Q Yes.

14 A Uh - yes.

15 Q We're talking like hundreds of millions of dollars  
16 type of project?

17 A Um - in terms of cost of construction, yeah; in  
18 terms of value to the owner, no.

19 Q Okay. What about value to the owner?

20 A You know, millions. But at a cost to potentially  
21 the embedded and higher value as a water project.

22 Q Okay. So you have to compare if it's going to  
23 adversely impact the water project?

24 A That's correct.

25 Q And the water project clearly was worth hundreds of

1 millions of dollars. Fair?

2 A That would be my opinion of it. Other people would  
3 have a different assessment.

4 Q Have you heard that it's been valued as much as  
5 \$750,000,000?

6 A I saw that in a document, and, you know, I hope he's  
7 right.

8 Q Okay. That's certainly within the ballpark of what  
9 you think. True?

10 A It's higher than what I think, but I wouldn't tell  
11 Delta Wetlands that.

12 Q Okay. Well, I think you just did.

13 A Sorry.

14 Q What do you value the water project at?

15 MR. DONAHUE: Objection. That's irrelevant, what  
16 his opinion is. You're calling for his opinion on that.  
17 I'm not going to have him answer that.

18 MR. DREYER: Okay. Let's look at Exhibit 16.

19 (Exhibit 16 marked.)

20 Q BY MR. DREYER: Now, that's you at the top there,  
21 right, in terms of your --

22 A That's correct.

23 Q So let's look at the last page. And this is, for  
24 the record, it's RRG 1978, 79 and 80.

25 So I'm going to look at 80. This is an article

1 that, apparently, you read on or about this time frame,  
2 January 11, 2011. True?

3 A Yes.

4 Q And this deals with Mr. Allen being killed when the  
5 contact happened with your tower on Webb Tract. True?

6 A That's correct.

7 Q And your first notice of this was from Mr. Stephens  
8 sending you this article?

9 A No. I believe I -- it looks like I forwarded it to  
10 him.

11 Q Okay. So you found it and sent it to him.

12 A Yeah. It looks like there was an e-mail from him  
13 earlier, probably indicating, and then I probably  
14 discovered the article and forwarded it to him.

15 Q All right. And how did you first find out about  
16 this incident?

17 A I believe Mr. Stephens, if you look at the next  
18 e-mail that happened. Right. So even though that's the  
19 next page, the time stamp looks about right. So I believe  
20 it was informed by Mr. Stephens's e-mail.

21 Q So this is the 10:03 e-mail on 79 where he says, "I  
22 just heard about the crop duster hitting a tower on Webb  
23 Tract and dying." Right?

24 A Correct. That's my recollection of how I found that  
25 out.

1 Q And was it by e-mail or phone call?

2 A I don't recall which happened first.

3 Q Okay. And your e-mail -- in response, you got some  
4 e-mails back and forth where you're copied from James and  
5 from Forkel. Your e-mail is, quote, "We're talking. Is  
6 Dave getting info from Winther?" Right?

7 A Uh-huh.

8 Q Is that a yes?

9 A Yes. Correct.

10 Q And when you say "we're talking," who is "we"?

11 A My assumption from the e-mail is I was speaking to  
12 Mr. Stephens.

13 Q All right. And Winther is Bouldin Farm's John  
14 Winther?

15 A That's correct.

16 Q Did you ever talk to Winther about this event?

17 A I did not.

18 Q So, clearly, you know about it on January 11th at  
19 10:00 o'clock in the morning.

20 A I do.

21 Q Let's look at exhibit -- what I've marked as  
22 Exhibit 17.

23 (Exhibit 17 marked.)

24 Q BY MR. DREYER: Some of this is going to be  
25 repetitive because of just the way in which they were



1 produced.

2 A Okay.

3 Q And this is 79 through 81.

4 A Okay.

5 Q And we've -- the first page is the e-mail we've  
6 already talked about. The second page is you sending the  
7 e-mail.

8 A Okay.

9 Q I think we pretty much covered this, so let's just  
10 turn that one over. Now let's look at Exhibit 18.

11 (Exhibit 18 marked.)

12 Q BY MR. DREYER: And this is an e-mail, this is 1986  
13 of the production from RRG. Is this one of the e-mails  
14 you reviewed in preparation for today?

15 A It is.

16 Q All right. And this, again, refers to the -- the  
17 article?

18 A I believe it's a copy -- the bottom is the top of  
19 the last e-mail.

20 Q Right. And you've -- you have -- who is Laura  
21 Wessein, W-E-S-S-E-I-N?

22 A I think she has the role as the insurance  
23 administrator or adjuster for either ZKS or Delta Wetlands  
24 Properties.

25 Q Okay. So your partner in the project?

1 A Yeah. I've never met her.

2 MR. DONAHUE: Well, I object to the term "partner."

3 MR. DREYER: Okay. Well --

4 THE WITNESS: It's the owner of the project.

5 Q BY MR. DREYER: Owner of -- the people that hired

6 you to -- to manage the Delta Wetlands storage project.

7 Right?

8 A My recollection is she's a consultant for them,

9 correct.

10 Q Okay. And have you ever met her or talked to her?

11 A I've spoken to her on the phone. I've not met her.

12 Q Her e-mail says, "I'm in the process of letting  
13 Delta's insurance carriers know about this accident, but  
14 the impact should be on the Alexander Flying Service  
15 Insurance."

16 Did she discuss that with you, verbally, that she  
17 felt that that insurance company should somehow be  
18 involved in this?

19 A I don't recall that.

20 Q Did you have any involvement in the discussion about  
21 what insurance carrier is responsible for this event? You  
22 personally.

23 MR. DONAHUE: I object to it.

24 If you had any discussions with Mr. Swiller in that  
25 regard --

1 THE WITNESS: Mr. Stringer?

2 MR. DONAHUE: I'm sorry. Yeah, I apologize.

3 THE WITNESS: No problem.

4 MR. DONAHUE: -- Mr. Stringer as counsel, excluding  
5 any such conversations from your answer.

6 Q BY MR. DREYER: Yeah. I don't want to know anything  
7 that -- I might want to know it, but I -- I don't want you  
8 to tell me about it, in terms of communications with  
9 lawyers, Mr. Donahue and Mr. Stringer.

10 So my question to you is: Did you have any  
11 conversations, like with Stephens and this gal, about  
12 whose insurance carrier should be responsible for this?

13 A No, not that I recall.

14 Q Were you focused on that at all, as to who -- what  
15 insurance carrier is involved?

16 A No. I was more concerned about the fatality, to be  
17 honest.

18 Q Okay. All right. Let's look at Exhibit 19.

19 (Exhibit 19 marked.)

20 Q BY MR. DREYER: It says 19 at the top, right,  
21 exhibit number?

22 A It does, yeah.

23 Q Okay. Thank you. This is Delta-76 production. And  
24 we're going to read from the bottom up.

25 A Okay.

1 Q And -- and when you say -- before I go there, when  
2 you say you're more concerned about the fatality, what do  
3 you mean by that?

4 A Well, at the time of that e-mail, I had never been  
5 involved in anything like this. So I was just trying to  
6 understand what had happened.

7 Q Okay. And were you worried about it from a  
8 financial exposure; were you worried about it just from  
9 the fact that someone had been killed; were you worried  
10 about the family? When you say you were more focused on  
11 the fatality, I'm trying to get your state of mind.

12 A Financial exposure didn't jump to my head at first.  
13 It was more that there was a fatality on a project that  
14 I've been associated with.

15 Q And that bothered you. Right?

16 A It did.

17 Q Okay. And you understood there'd be consequences,  
18 potentially, of that person's family. And that's the --  
19 the human kind of component of that is what you're saying  
20 was bothering you. True?

21 A Of course, yes.

22 Q Okay. All right. So let's look at Exhibit 19.

23 A Okay.

24 Q And starting from the bottom, it appears that  
25 Mr. Eisenhower --

1 A Yes.

2 Q -- has sent an e-mail to you and others concerning a  
3 call he got from a reporter.

4 Do you remember this happening?

5 A I remember reporters calling. I don't recall a  
6 specific reporter, but yes.

7 Q Did you review this e-mail in preparation for today?

8 A I did.

9 Q And in this one, it indicates that this reporter  
10 called and asked a couple of questions, such as -- and  
11 it's in the e-mail, it says height of the tower, "Our  
12 decision whether to paint the tower or put a light on it."  
13 So these were questions you understood the reporter was  
14 asking RRG. True?

15 A Correct.

16 Q And Mr. Eisenhower is whom with your company?

17 A He's an employee of my company.

18 Q What's his job?

19 A He has -- like a lot of us, wears a number of hats,  
20 but including he handles a lot of the public relations  
21 related to our businesses and our company.

22 Q So he's the guy that if someone contacts your  
23 company to get a statement about a project, how it's going  
24 or thoughts about the project, he is the contact person?

25 A Correct.

1 Q Does he have a journalistic -- journalism  
2 background?

3 A Yes. He was a press secretary on the Hill.

4 Q Okay. So he's from the capital. You knew him?

5 A Yes.

6 Q All right. So it says, "Below is info of the  
7 reporter who called me this afternoon regarding the Delta  
8 Wetlands met tower into which a pilot crashed his crop  
9 duster. And additionally, attached is a recording of the  
10 voicemail he left. He's on the paper's crime/cops beat,  
11 I've not called him back yet."

12 And then there's an e-mail from Stephens saying,  
13 "Who's going to answer this question? Was there a strobe  
14 light on the tower?" He's asking that question.

15 Now, did Mr. Stephens ever discuss this with you  
16 before he sent out the e-mail?

17 A I don't recall any conversations about it.

18 Q Did you know whether this met tower -- at the time  
19 that you read about the incident in the newspaper, did you  
20 know whether this tower had a strobe light or a warning  
21 light on it?

22 A No, I don't recall knowing about that.

23 Q Did you know -- you know today it did not. True?

24 A That is my understanding, yeah.

25 Q Did you know if this tower was painted -- as of

1 January 11th when you first heard about it, did you know  
2 whether the tower was painted or not, such that it could  
3 be more visible?

4 A As of the incident, I had no knowledge of the  
5 painting of the tower.

6 Q Did you have any knowledge about whether orange  
7 visibility balls were on the wires?

8 A I did not.

9 Q Did you -- before January 11th of 2011, were you  
10 ever made aware that part of the proposal from Echelon  
11 included visibility balls, and that they were not put on?

12 MR. DONAHUE: I'll just object. Lacks foundation as  
13 to which tower.

14 Q BY MR. DREYER: Go ahead.

15 A Are you referring to the tower that was hit?

16 Q Yes.

17 A I'm not aware of that.

18 Q Are you aware of whether the other met tower had a  
19 strobe light installed on it or not?

20 A As of the incident, I was not.

21 Q You've found these things out subsequently. True?

22 A Correct.

23 Q Then you respond to Mr. Stephens's questions of  
24 February 9th, 2011. Right?

25 A Uh-huh.

1 Q Is that a yes?

2 A That's correct.

3 Q And this, again, is -- so we're now less than a  
4 month since the incident. And you indicate, "The question  
5 to me is do we need to. I'm not sure we have to call him  
6 back."

7 So that was your response to the inquiry from  
8 Eisenhower. True?

9 A Or the first question, Mr. Stephens' response.

10 Q Okay. So, "The question to me is do we need to,"  
11 meaning do we need to respond to the reporter.

12 A Correct.

13 Q And was that more of a statement from you or were  
14 you actually looking for input?

15 A Probably more of a statement.

16 Q Your recommendation was not to respond.

17 A That's correct.

18 Q By that time, did you know that, in fact, the  
19 subject tower did not have a strobe light on it?

20 A I can't recall the time of which I found out.

21 Q Did you know by then that the -- the San Joaquin  
22 tower, the one on the Bouldin Island, did not -- did have  
23 a strobe light on it?

24 A My recollection at the time was that we followed the  
25 County's recommendation, in terms of my investigation,



1 that we'd followed what the County's recommendation was in  
2 terms of following their recommendations for installing  
3 the tower.

4 Q Did you know what information the County was relying  
5 on, as you characterize this recommendation?

6 A I don't understand your question.

7 Q Well, you know that the County is looking at the  
8 information that RRG is giving it, relative to the  
9 application. True?

10 A Correct.

11 Q And in terms of the actual recommendation, as you  
12 describe it, by the County, did you know anything about  
13 that before Mr. Allen was killed?

14 A No.

15 Q Okay. Exhibit 20.

16 (Exhibit 20 marked.)

17 Q BY MR. DREYER: This is RRG 2057 to 2064. And this  
18 is an article that addresses the NTSB report.

19 Did you read this article when it came out?

20 A I believe so, yes.

21 Q So the statement where it says -- and down towards  
22 the bottom, it says: The NTSB wrote in its report that,  
23 quote, "The fact that these towers are narrow, unmarked  
24 and gray in color makes for a structure that is nearly  
25 invisible under some atmospheric conditions," end quote.

1 Did you actually read the NTSB report?

2 A I did not.

3 Q Has anyone ever provided that to you other than  
4 counsel?

5 A No.

6 Q Did you ever -- when -- when this event happened,  
7 Mr. Swiller, were you interested in getting accurate  
8 information about how it could happen?

9 A Yes.

10 Q Did you ever ask anybody to make sure they got you  
11 the NTSB report?

12 A I don't recall that, no.

13 Q Have you, at RRG, erected any met towers since this  
14 incident?

15 A We have not.

16 Q And from your perspective, the safety of that  
17 installation of that tower and how it was installed, do  
18 you personally have any expertise in what is the safe way  
19 in which to erect one of these met towers?

20 A I'm not sure I understand the question.

21 Q Do you know, in your capacity with RRG, believe you  
22 have the professional ability to make decisions as to what  
23 is the safe way to install a met tower in an agricultural  
24 area?

25 MR. DONAHUE: You mean presently?

1 MR. DREYER: Yeah, presently.

2 MR. DONAHUE: Object as to any relevance whatsoever.

3 But you can answer.

4 THE WITNESS: I'm mean I -- I don't know how to put  
5 them up, but obviously, there's a learned experience here.

6 Q BY MR. DREYER: Okay. Well, let's -- and that's the  
7 death of Mr. Allen, obviously.

8 A Yes.

9 Q Let's talk about before January of 2011,  
10 Mr. Swiller.

11 A Uh-huh.

12 Q Did you have, in your mind, the expertise for the  
13 safe way to install these met towers in agricultural  
14 areas?

15 A No. That's why we hired Echelon to assist with  
16 that, because they are experts at it.

17 Q Is there -- who made the decision to hire Echelon?

18 A I don't know who, exactly.

19 Q Did you --

20 A Uh-huh.

21 Q Well, strike that. Who, in your mind, is the most  
22 knowledgeable person with RRG on the safe installation of  
23 met towers before January of 2011?

24 A It's not something we're expert in.

25 Q Okay. So you don't think you have any expertise in

1 that area?

2 MR. DONAHUE: Well, I think that's argumentative.  
3 Misstates his testimony.

4 THE WITNESS: We don't have expertise in the  
5 installation. It's not -- it's not our business to  
6 install them.

7 Q BY MR. DREYER: Well, in fact, this met tower was  
8 installed because RRG --

9 A But we weren't the installer.

10 Q I understand you weren't the installer. Let me  
11 finish my question, Mr. Swiller.

12 A Okay.

13 Q And I'm not arguing with you about who was the  
14 installer. We do know who the installer is and they're a  
15 defendant in this case.

16 My question to you is: This tower doesn't get  
17 installed unless RRG hires them to get the installation.  
18 True?

19 MR. DONAHUE: Objection. Misstates the evidence.

20 MR. DREYER: Go ahead.

21 MR. DONAHUE: Are you asking without regard to what  
22 the owner does --

23 MR. DREYER: Well, let me rephrase it to you this  
24 way.

25 MR. DONAHUE: -- allows to be done on their land.

1 Q BY MR. DREYER: Your project, your -- strike that.  
2 Your role was to manage this property for renewable  
3 energy. True?

4 A It was to work on the water project.

5 Q Okay. And, ultimately, RRG made the decision to  
6 investigate the potential of a wind-energy project. True?

7 MR. DONAHUE: Objection. Misstates the testimony.

8 Q BY MR. DREYER: Go ahead.

9 A We did see an opportunity for a potential wind  
10 project; that is correct.

11 Q And the reason the met tower was put up was because  
12 of this potential wind-energy project. Fair?

13 A In order to investigate that, that's correct.

14 Q All right. Now, look at the second page of  
15 Exhibit 20, if you would. This is a February 9th, 2011  
16 e-mail that says -- from you, that says, "Looks like  
17 critical mass for 8:45 talk then. Thanks. Dave, you're  
18 the host."

19 MR. DREYER: We're on page 2058.

20 MR. DONAHUE: Okay. Got it.

21 Q BY MR. DREYER: Did you guys -- did the group of you  
22 have a telephone conversation in that time frame about  
23 this event?

24 A I assume we did.

25 Q All right. Do you remember it?

1 A I don't recall it.

2 Q Did you keep track of -- did you take notes during  
3 the course of this telephone conversation?

4 A Not that I recall, no.

5 Q It's your phrase, "critical mass." Right?

6 A That appears so, yes.

7 Q What did you mean by "critical mass at 8:45"?

8 A Well, it looks like there are a number of people  
9 indicated on the e-mail. My assumption would be that's  
10 when people could get on the call.

11 Q As you sit here today, do you have a recollection of  
12 why you used the phrase "looks likes critical mass"?

13 A What I just told you.

14 Q Okay. That's it?

15 A Yeah.

16 Q Okay. And in terms of the people on the telephone  
17 call, as you sit here today, do you have a recollection of  
18 the call?

19 A I do not.

20 Q All right. Let's turn to the next page. And  
21 this --

22 (Pause in proceedings.)

23

24 MR. DREYER: Now that you've told him that, he's  
25 going do it.

1 THE WITNESS: Yeah, I'll just turn it down.

2 MS. DELANOY: Can we just take a break and --

3 MR. DONAHUE: Yeah, let's do it. Can we take a real  
4 quick one?

5 MR. DREYER: I'm very close to being finished, but  
6 if you want to take a break, we can take a break. Okay.  
7 Let's take just a five-minute break.

8 MR. DONAHUE: Yeah, or less.

9 THE VIDEOGRAPHER: This concludes Videocassette  
10 No. 2, we're off the record at 1:43.  
11

12 (Break taken.)  
13

14 THE VIDEOGRAPHER: We're on the record at 1:51.  
15 Today's date is Tuesday, February 18th, 2014. And this  
16 begins videocassette No. 3 in the deposition of Ari  
17 Swiller in the matter of Karen Allen v. NRG Systems, Inc.

18 Q BY MR. DREYER: Okay, Mr. Swiller. We took the  
19 break, we were looking at page 2058. We're now going to  
20 turn to page 2059.

21 And I take it, in looking at this, that this e-mail  
22 communication all took place before your e-mail of  
23 February 9th at 8:33 in the evening. Correct?

24 A That -- yes.

25 Q Okay. So let's turn -- we're going to do it from

1 the bottom up. So 2060; why don't you look at that one.

2 And we have the e-mail that we referred to earlier  
3 from Mr. Stephens at 4:39. Then we have right above that  
4 an e-mail from Dave Forkel, which references that Delta  
5 Wetlands has not been contacted in Walnut Creek by any  
6 reporters. "And I'll refer calls to -- of press to Tom,"  
7 meaning Eisenhower.

8 The next paragraph says, "The Bouldin met tower has  
9 a light per the San Joaquin County permit. I do not see  
10 any requirement for a light from Contra Costa County, but  
11 Jim is checking and the tower supplier confirmed there was  
12 a light on the Webb met tower. Not sure why this issue  
13 has come up a month after the accident. We did, however,  
14 send the repair claim to BFC Insurance agent last week."

15 So, apparently, as far as you know, Forkel, in his  
16 capacity as general manager, did send a repair claim  
17 relative to the tower to BFC. Right?

18 MR. DONAHUE: If you know.

19 Q BY MR. DREYER: If you know.

20 A Just from the e-mail.

21 Q And this e-mail about San Joaquin having a light,  
22 according to a permit, and Contra Costa not, that's the  
23 first time you became aware of that, in this e-mail?

24 A I'm not sure that -- if I was aware of it, but  
25 probably around this time. I don't know if this e-mail



1 made me aware of it or not.

2 Q Did anybody explain to you -- and I'm obviously not  
3 talking about lawyers now -- but did anybody explain to  
4 you why it is that the San Joaquin permit required one and  
5 this Contra Costa did not?

6 A My recollection of why Contra Costa didn't is that  
7 they had a requirement that there be low glare on the  
8 tower and no lights affixed to it.

9 Q Okay. Did you have any -- did anyone explain to you  
10 why it is there was this difference?

11 A Why for the difference, no.

12 Q And, again, by that point in time, had -- by  
13 February 9th, had you looked at the applications  
14 themselves to -- for you to investigate for your own  
15 purpose why it is that there was a difference?

16 A I don't know if I investigated for that purpose, but  
17 I did look at the application.

18 Q Okay. And it was clear to you that this -- that the  
19 Webb Tract was a farm - an agricultural farming project.  
20 True?

21 A I'm not sure what your question is.

22 Q Well, you knew it was ag land where the event  
23 happened; meaning, ongoing -- meaning ongoing farming  
24 endeavors by Bouldin Farming.

25 MS. KNUDTSON: Vague and ambiguous as to time.

1 MR. DONAHUE: And it also assumes facts not in  
2 evidence.

3 THE WITNESS: I'm aware that we had a lease with  
4 Bouldin. What they did on the island in terms of how they  
5 managed that, I'm unaware of. But I'm -- I know that the  
6 owner, Delta Wetlands, had a lease with Bouldin.

7 Q BY MR. DREYER: Well, you -- you said you read the  
8 application. You saw in the application where RRG  
9 indicated that they have active farming going on on the  
10 properties. True?

11 MS. KNUDTSON: Vague and ambiguous as to time, and  
12 also assumes facts not in evidence.

13 MR. DONAHUE: Join.

14 THE WITNESS: If that -- I don't recall at the  
15 moment. But if that's what the application says, that's  
16 what it says.

17 Q BY MR. DREYER: And if RRG makes that representation  
18 to the -- the County that there's active farming going on,  
19 that would be an honest representation. Right?

20 A Yes. We would represent that honestly.

21 Q Okay. Now, let's look at the next e-mail, which is  
22 on page 2059. And this appears to be an e-mail from Tom  
23 Eisenhower. If you look at 2058 at the top, it says from  
24 him.

25 A Yup.

1 Q And it says -- you're talking about -- he talks  
2 about the calls and he talks about the options.

3 A Yes.

4 Q Is this one of the e-mails you looked at in  
5 connection with getting ready for today?

6 A It is.

7 Q And you saw where he laid out these options?

8 A I did.

9 Q Do you remember these options being discussed at  
10 this telephone conversation?

11 A I don't remember the specific call, but I remember  
12 these recommendations, correct.

13 Q Okay. Option 1 was no one calls him back.

14 A Correct.

15 Q Option 2 is to play dumb and try to find out what  
16 else he wants to ask, what his attitude, that sort of  
17 thing?

18 A Uh-huh.

19 Q Right? You saw that?

20 A I did.

21 Q Whether to have a DW rep, i.e., Andy. Who's Andy?

22 A Andy Moran.

23 Q Okay. And he proposed what could be described, you  
24 know, the response. Do you remember talking about that in  
25 this telephone conversation with everybody?

1 A I don't recall it in the conversation, but I recall  
2 the context of this --

3 Q Okay.

4 A -- e-mail discussion.

5 Q And I'm going through it, Mr. Swiller, just to see  
6 if it refreshes your recollection about the conversation,  
7 you don't recall specifically what was happening.

8 There's a -- there's a paragraph that says, "All we  
9 do know is that the tower," misspelled, "that the tower  
10 was below the FAA's 200-foot height restriction - and that  
11 it was installed as provided by the manufacturer as  
12 recommended by the installer, in accordance with the  
13 permit that the County granted for it."

14 Do you remember him saying that?

15 A Not specifically; but I remember the gist of that  
16 information.

17 Q And then he talks about, "Do we know that all three  
18 of the statements in the last sentence are accurate? And  
19 are we inviting trouble with the County and the  
20 manufacturer and installer? And are we needlessly leaving  
21 ourselves open to being contradicted by the  
22 investigation?"

23 Again, these are all things that Mr. Eisenhower  
24 wrote to you folks.

25 Do you remember having that conversation in this

1 meeting that, you know, we -- we could talk about the  
2 manufacturer, the installer and the County? Do you  
3 remember that?

4 A I don't. I remember around this time being advised  
5 by counsel to have limited conversations.

6 Q Okay. And, in fact, that was the -- the ultimate  
7 recommendation -- ultimately what you folks did, you just  
8 didn't respond to the reporter. True?

9 A That was my recommendation. I believe that's what  
10 we did.

11 Q Okay. Let's look at Exhibit 21.

12 (Exhibit 21 marked.)

13 Q BY MR. DREYER: Now, this is a February 14th e-mail,  
14 and it's the last one I can find that you authored.

15 Do you remember writing anything on this topic after  
16 Valentine's Day on 2011?

17 A I do not.

18 Q You saw this e-mail in your review in preparation  
19 for today?

20 A I did.

21 Q All right. Here, it says -- let's see. Let's do  
22 this timing-wise. Okay. You have February 14th, 2011 at  
23 2:25; Ari Swiller wrote, "Under 200 feet there's only  
24 County approval that is necessary - not FAA approval or  
25 permitting. My understanding of the permit is that it was

1 for construction and not the structure staying up there --  
2 staying up, so there was no cause for renewal."

3 And this was apparently in response to Mr. Stephens'  
4 e-mail of just a few minutes before where he makes  
5 reference, apparently, you guys have gone through the  
6 applications now.

7 A Correct. That would be my assumption.

8 Q Okay. So let's look at -- at his e-mail, then we'll  
9 get to yours.

10 A Okay.

11 Q It says, "I see Item 10 where the paint colors  
12 chosen for all equipment shall blend in with the  
13 surroundings and have a reflectivity of less than  
14 55 percent. Is this for the tower or the equipment on the  
15 ground, if there is any equipment on the ground? Nothing  
16 in the permit about," parenthesis -- or "nothing in the  
17 permit about," and then it has a quote mark and it says  
18 "no lights," and then the percentage. And I have no idea  
19 why those are there. "Under administrative review, the  
20 land use permit is granted for a period of one year  
21 extended to August 4th, 2009, 90 days prior to the  
22 expiration of this land use permit. The applicant may  
23 request a one-year extension of the permit. Did we do  
24 this? If we did, that would have moved expiration to  
25 August 4th, 2010. Did we then beyond this date?"

1           So do you remember Mr. Stephens on behalf of ZKS  
2 asking those questions?

3 A           I recall that after reviewing it, yes.

4 Q           And then you responded a few minutes later. Right?

5 A           Correct.

6 Q           First sentence, "Under 200 feet, there's only County  
7 approval that is necessary."

8           What did you base that comment on?

9 A           What I've been told through my investigation of what  
10 happened.

11 Q           Okay. And who did you talk to in your  
12 investigation?

13 A           Um - probably Mr. Kaschak, Mr. James, Ms. Frates.

14 Q           And do you know who told you that under 200 feet,  
15 there's only County approval that is necessary?

16 A           I don't recall which one of them told me that, but I  
17 recall having it from their authority on it.

18 Q           That's certainly nothing you knew of your own mind.  
19 Right?

20 A           That is correct.

21 Q           Then it says "not FAA approval or permitting." And  
22 that, again, is all in conjunction with that -- that  
23 sentence. Again, you were relying on Kaschak or someone  
24 else. True?

25 A           Correct.

1 Q Okay. "My understanding of the permit is that it  
2 was for construction and not the structure staying up, so  
3 there was no cause for renewal."

4 A Correct.

5 Q And that was your understanding, that is at this  
6 time you folks never asked for a renewal. True?

7 A My understanding is that the permit was for the  
8 construction of the tower, not for it to stay up. So you  
9 don't -- once you erect the structure, you don't need to  
10 renew the application to have it stay up, you just need  
11 the permit in order to construct it.

12 Q Were you aware that you folks had budgeted to take  
13 it down, as well?

14 A I've since become aware of that, yes.

15 Q Were you aware of that back on February 14th?

16 A I don't recall that date.

17 Q Was your position on February 14th, 2011 you guys  
18 could just leave the tower up as long as you wanted?

19 A That's not how I -- on February 14th?

20 Q Yes, sir.

21 A Um - yeah, that would be a fair understanding.

22 Q Okay. When Mr. Stephens asked the question about  
23 extending past the one-year time frame, that was your  
24 response to that inquiry, based upon your knowledge.  
25 True?



1 A I think he misunderstood.

2 Q He?

3 A Mr. Stephens.

4 Q Okay.

5 A I believe Mr. -- Mr. Stephens' question was not  
6 understanding the permit facts.

7 Q Well, do you know -- understanding you're not a  
8 lawyer, and put aside whatever lawyers might have told  
9 you. Do you know from your standpoint whether, in fact,  
10 that permit obligated RRG to get the tower down, as well?

11 A I do not recall that.

12 Q So as far as you knew, on February 14th, 2011, there  
13 was no obligation on the part of RRG to take the tower  
14 down?

15 A Well, with this, what I recollect in reviewing this  
16 is that the permit had a timeline of under which to  
17 construct. It did not address removal.

18 Q At this point in time, Mr. Swiller -- and had you  
19 talked with a lawyer about this event? I don't want to  
20 know what you talked about, I just want -- had you met  
21 with a lawyer other than Charlie?

22 A I believe so.

23 Q Okay. Were you personally, at this point in time --  
24 forget about -- I don't want you to tell me anything you  
25 might have told the lawyer. Were you concerned about who

1 was going to be legally on the hook for what had happened?

2 MR. DONAHUE: I think that necessarily calls into  
3 question why he contacted the lawyer. It calls -- it  
4 invades attorney-client privilege.

5 MR. DREYER: Then let me rephrase it. Let me  
6 rephrase it. I'll withdraw it.

7 MR. DONAHUE: What he was worried about as well is  
8 not even -- is not relevant.

9 MR. DREYER: Let me -- let me withdraw it and let me  
10 rephrase it.

11 Q You did an investigation, you personally, to try to  
12 find out what had happened and why. True?

13 A Correct.

14 Q And the people you were looking to to provide you  
15 information were whom?

16 A Mr. Kaschak, Mr. James, Ms. Frates, Mr. Forkel,  
17 Mr. Stephens.

18 Q And you told those individuals, you know, we -- we  
19 need to find things -- and I'm paraphrasing, but you  
20 basically said, "We need to get as much information as we  
21 can about what had happened." True?

22 A I don't know how I would have phrased it, but --

23 Q Did anyone -- did anyone contact Bouldin Farms?

24 A I -- I did not.

25 Q Did you ask anybody to contact Bouldin Farms?

1 A Not that I recall, no.

2 Q Were you aware that -- strike that. The property  
3 where this met tower on Webb Tract was constructed was a  
4 piece of property that was leased to Bouldin Farms.

5 Did you know that?

6 A I found that out subsequent to the accident. I  
7 don't recall when I found it out, but yes, that is  
8 correct.

9 Q Did you know, as of January of 2011, that Bouldin  
10 Farms was leasing that Webb Tract from Delta?

11 A Yeah. I mean, ultimately, Delta Wetlands Properties  
12 is the owner. They hired us, so no decisions relative to  
13 the property could be made, whether it was Bouldin Farms  
14 having a lease or us putting a tower. So I became aware  
15 that Delta had entered into that agreement with  
16 Mr. Winther.

17 Q Were you aware that as of January of 2011 that  
18 Bouldin Farms was mindful that they had a met tower on  
19 their property?

20 A I'm sorry, what they knew?

21 Q I'm asking you --

22 A Okay.

23 Q -- whether you were aware that Bouldin Farms had  
24 been made aware of the met tower on their property that  
25 they were leasing?

1 A My presumption is that we could not have gone on the  
2 property, because they had it encumbered by a lease,  
3 without their expressed consent.

4 Q At some point in time in your investigation, did you  
5 find out who had hired Mr. Allen and his company to lay  
6 down seed aerially on this property?

7 A I don't know that he -- I know that he was engaged  
8 by Bouldin Farming. Whether it was to lay seed or do  
9 anything else, I don't know the level of that engagement.

10 Q How did you know he was hired by Bouldin?

11 A I don't recall who brought that to my attention.  
12 But obviously, you know, my -- my sense would be it might  
13 be Mr. Forkel, because he had the most interaction with  
14 Mr. Winther and his company.

15 Q Did Mr. Forkel relate to you that Bouldin Farms  
16 never explained or identified this met tower to Mr. Allen?

17 A I don't believe we had that level of conversation.

18 Q Other than hearing it from counsel, are you aware  
19 that Bouldin Farms never notified Mr. Allen of the  
20 existence of the met tower?

21 A I have no knowledge of any conversations they had  
22 with Mr. Allen.

23 Q Now, Mr. Braffman; you talked to him back in 2007,  
24 2008 about this project itself. Correct?

25 A Are you talking about the wind or the water -- Delta

1 Wetlands in general?

2 Q Let's say anything relative to Delta Wetlands.

3 A Yeah, about 2007. Yes.

4 Q And he was aware that you folks were going to look  
5 at the potential prospecting for wind energy?

6 A I'm sure, at some point, he became aware as the  
7 project owner.

8 Q Did he indicate to you anything in terms of his  
9 thoughts relative to that project, whether he was  
10 interested, whether he thought it was good, whether he was  
11 deferring to you? What was his mindset, if you recall?

12 A My recollection would be that we couldn't have moved  
13 forward without his approval. So, you know, I can't  
14 recall if he was jumping up and down excited about it.  
15 But certainly as the owner of the land and the owner of  
16 the project, we would need his approval to -- and also  
17 because it was coming from his budget, ultimately, and he  
18 was the budget decider, that's -- we would need his  
19 approval.

20 Q So Mr. Braffman would have to have signed off on the  
21 project for you folks to have the funding to do it?

22 A He or someone within the Zurich entity.

23 Q Was he the -- the -- the guy, ultimately, though, as  
24 far as you understood, that would have those  
25 decisionmaking responsibilities?

1 A He was our point of contact. I don't know how their  
2 structure exactly works.

3 Q His relationship with Stephens, do you know what  
4 Stephens' role was, vis-à-vis Braffman?

5 A He's also -- you know, I'm not really sure how ZKS  
6 is set up. But he was involved in the project from before  
7 we got started on it, Mr. Stephens.

8 Q Right. Okay. But in terms of getting the budget  
9 approved, that is something you believe you folks had to  
10 do with Braffman?

11 A Correct.

12 Q Now, since February 14th, 2011, have you personally  
13 done anything in terms of investigative action to see what  
14 happened that day, you know -- or strike that.

15 Before February 14th -- strike that.

16 Since February 14th, 2011, have you done anything to  
17 further investigate the circumstances surrounding  
18 Mr. Allen's death, other than dealing with counsel?

19 A Other than dealing with counsel, no.

20 Q And have you authored any kind of materials,  
21 e-mails, anything on this topic, other than communications  
22 directly with counsel?

23 A No.

24 MR. DREYER: All right. That's all I have for you.

25 Thank you.

1 THE WITNESS: Okay.

2 MR. DONAHUE: Let me have a stipulation. I just  
3 noticed this should have been redacted at the very top,  
4 it's from Mr. Stringer, on the top of Exhibit 21. The  
5 sentence should have been redacted. It's attorney-client.

6 MR. DREYER: I'm okay with that. I mean, it's  
7 already been discovered, but if -- I will -- I'm  
8 comfortable with that.

9 MR. DONAHUE: All right. Thank you.

10 THE VIDEOGRAPHER: Are we done?

11 MR. DREYER: I'm -- I'm done. I don't know if  
12 anybody else has questions.

13 THE VIDEOGRAPHER: Sorry.

14 MS. KNUDTSON: I have no questions.

15 MS. VAN DER PUTTEN: I have questions.

16 MR. DREYER: Well, then you better ask them.

17 MS. VAN DER PUTTEN: I will.

18  
19 (Pause in proceedings.)

20  
21 THE VIDEOGRAPHER: Let me go off the record for a  
22 second.

23 MR. DREYER: Sure. Let's go off the record.

24 THE VIDEOGRAPHER: Off the record at 2:11.

(Break taken.)

THE VIDEOGRAPHER: We're back on the record, 2:13.

EXAMINATION BY MS. VAN DER PUTTEN

BY MS. VAN DER PUTTEN: Good afternoon, Mr. Swiller.

My name is Crystal Van Der Putten, and I represent --  
represent NRG Systems, Inc., the manufacturer of the met  
tower involved in this litigation. Holding up okay?

A Doing great. Thank you.

Q Okay. Great. So I just wanted to ask you a few  
questions, somewhat related to my client and to Mr. Smith  
and Echelon Environmental Energy.

A Okay.

Q As to my client, NRG Systems, Inc., prior to the  
subject incident, did you know who NRG Systems, Inc., was?

A Prior to what, sorry?

Q Prior to the subject incident in January of 2011, so  
before --

A I think I was aware of them as a manufacturer and  
installer. I believe they have a met tower on one of the  
Onyx properties.

Q Okay. And were you aware that the met tower on Webb  
Tract was an NRG met tower?

A Prior to the incident, I don't recall direct



1 knowledge of that.

2 Q Okay. I believe you mentioned the -- or maybe Roger  
3 asked it. But the land use permit submitted to Contra  
4 Costa County for the met tower installed on the Webb  
5 Tract, you had the opportunity to review that. Is that  
6 right?

7 A I have, yes.

8 Q Okay. And did you review that before the met tower  
9 was installed?

10 A Um - I don't recall reviewing it before, but I may  
11 have.

12 Q Okay. And do you recall then, when you reviewed it,  
13 seeing that the met tower identified in the land use  
14 permit application was an NRG-manufactured tower?

15 A Correct.

16 Q Okay. But you're not sure when you reviewed the  
17 permit and became aware of that. Is that right?

18 A That's correct.

19 Q Okay. To your knowledge, Mr. Swiller, did NRG  
20 Systems, Inc., provide any input for that land use  
21 application to the Contra Costa County Planning  
22 Department?

23 A I'm not aware of their participation.

24 Q If they had participated, do you think you would be  
25 aware of that?

1 A No. They were probably working with Mr. Kaschak and  
2 Mr. James.

3 Q Okay. So the person to ask would be Mr. Kaschak or  
4 Mr. James?

5 A Correct.

6 Q Would it be the usual thing that a manufacturer of  
7 the tower would be involved in the land use permit  
8 application?

9 A If there are questions related to the tower,  
10 absolutely.

11 Q Okay. But they wouldn't have actually filled out  
12 any portions of the application. Is that true?

13 A It -- certain -- there's not a hundred percent  
14 answer to that, so --

15 Q Okay. But to the best of your knowledge, as you sit  
16 here today, NRG didn't participate in the land use permit  
17 application?

18 A Like I said earlier, they were -- if they -- they  
19 were working with Mr. James or Mr. Kaschak, so I don't  
20 know the level to which they needed their assistance. I  
21 mean, reviewing the applications we looked at today, there  
22 is a sheet attached with NRG specs. How we got that, I  
23 don't recall.

24 Q Okay. And you're aware, Mr. Swiller, of who Adam  
25 Smith is. Is that right?

1 A I am.

2 Q Okay. And you're also aware of Echelon  
3 Environmental Energy and who that is?

4 A Correct.

5 Q Okay. And were you aware of Adam Smith and  
6 Echelon's role in this project prior to the January of  
7 2011 accident?

8 A I probably have some vague recollection, but not --  
9 you know, not a huge involvement with them, no.

10 Q Okay. But you knew they were involved in this --

11 A I'm sorry.

12 Q Keep your voice up, yes. But you knew that they  
13 were involved in this met tower project on Webb Tract,  
14 though?

15 A Yes, they recommended by Mr. Simon.

16 Q Okay. And do you know why Mr. Simon recommended  
17 Adam Smith and Echelon?

18 A My assumption is he's worked -- my recollection is  
19 that he recommended them having worked with them in the  
20 past. I value Mr. Simon as a knowledgeable resource in  
21 the land -- in -- sorry, in the wind development space,  
22 and so I -- you know, I count highly on his  
23 recommendations.

24 Q Okay. And what was your understanding of -- of Adam  
25 Smith and Echelon's role for this project on Webb Tract?

1 A They were going to be the installer and monitor of  
2 the project.

3 Q Okay. And when you say "installer and monitor of  
4 the project," what does that entail?

5 A Sorry. It entails the installation of the tower and  
6 the monitoring of the wind data.

7 Q And included in installing the tower, would that  
8 also include any visibility enhancement devices for the  
9 tower and whether those were necessary?

10 MS. KNUDTSON: Vague and ambiguous. Overbroad.

11 MR. DONAHUE: Join.

12 THE WITNESS: Sorry, will you ask me the question  
13 again?

14 Q BY MS. VAN DER PUTTEN: Of course. Was it your  
15 understanding that Mr. Smith and Echelon were involved in  
16 this project to provide recommendations on whether certain  
17 safety features might be needed for the met tower?

18 A No. It was my --

19 MR. BRASCH: This is Mr. Brasch. I object to the  
20 form and foundation.

21 MS. VAN DER PUTTEN: Go ahead.

22 MS. KNUDTSON: And vague and ambiguous. Overbroad.

23 MR. DONAHUE: Yeah. Which tower? Is it the Bouldin  
24 Tower or is it --

25 MS. VAN DER PUTTEN: I'm referring to the Webb Tract

1 tower when I'm asking these questions.

2 THE WITNESS: My understanding in of their  
3 involvement is that they were the qualified firm to  
4 construct such a tower and install it. And so from  
5 that -- everything related to that it, we would rely on  
6 their expertise.

7 Q BY MS. VAN DER PUTTEN: So if Mr. Smith and/or  
8 Echelon thought the visibility enhancements were necessary  
9 for this tower, you would expect that they would speak up  
10 and tell Mr. Kaschak or whoever at NRG was involved in  
11 making that decision?

12 MR. BRASCH: This is Mr. Brasch again. I'm going to  
13 object. Incomplete hypothetical. It calls for  
14 speculation.

15 THE WITNESS: My experience with working with  
16 consultants is that -- especially consultants that have  
17 the level of experience that Echelon does, is that they  
18 are expert in what they're doing and, you know, they'll --  
19 specific to different advice, I don't know where, you  
20 know --

21 Q BY MS. VAN DER PUTTEN: But you expected Mr. Smith  
22 and Echelon -- if there was something missing on this  
23 project or something unsafe about it, you expected them to  
24 tell RRG about that?

25 A That would be my expectation, yes.

1 Q Okay. And going back, you've mentioned a couple of  
2 times that you considered Smith and Echelon to be  
3 qualified. Is that true? Sorry. Qualified to consult or  
4 install the subject met tower on the Webb Tract?

5 A Yes. They came recommended by, as I mentioned  
6 earlier, Mr. Simon, who is someone whose opinion I value.

7 Q Okay. And so you considered Smith and Echelon to be  
8 knowledgeable about met towers generally and the  
9 installation of met towers?

10 A My recollection is that they've done hundreds of  
11 these, and so they have quite a bit of experience in this  
12 stuff.

13 Q Okay. Did you consider Mr. Smith and Echelon to be  
14 the -- I guess, the project manager for this project in  
15 terms of the installation?

16 MR. BRASCH: This is Mr. Brasch again. I'm going to  
17 object. Form and foundation.

18 MR. DONAHUE: Vague and ambiguous as to what you  
19 mean by project manager for the project.

20 MR. BRASCH: I'll join that, as well.

21 MS. VAN DER PUTTEN: Well, I said as to installation  
22 part of the project.

23 Q Was he the supervisor, in terms of the installation  
24 of the subject met tower?

25 A That is my recollection, yes.

1 Q Did Mr. Smith and Echelon assist RRG in completing  
2 the land use permit application that was submitted to  
3 Contra Costa County?

4 MR. BRASCH: This is Mr. Brasch again. I object to  
5 form and foundation. And vague and ambiguous as to  
6 "assist."

7 Q BY MS. VAN DER PUTTEN: And I'm sorry, go ahead and  
8 answer again. I didn't catch that.

9 A Mr. Kaschak and Mr. James were more directly  
10 involved. So to the level of his involvement, or  
11 Echelon's, I can't speak to that.

12 Q So is it fair to say you -- as you sit here today,  
13 you don't know if Mr. Smith and Echelon assisted in the  
14 land use permit application of Contra Costa County?

15 A Correct, I can't recall that.

16 Q Okay. Do you know if Mr. Smith and Echelon assisted  
17 or had any input for the building permit submitted to  
18 Contra Costa County?

19 A Same answer.

20 Q Were you involved in any conference calls to discuss  
21 the Webb Tract project?

22 MR. DONAHUE: Objection. Vague and ambiguous as to  
23 the --

24 Q BY MS. VAN DER PUTTEN: All right. The met tower  
25 and the wind-energy project on the Webb Tract, were you

1 involved in any conference calls about that, not with your  
2 attorneys?

3 A I may have at some point, but I don't recall  
4 specific calls.

5 Q Okay. Do you remember who may have been included on  
6 those calls?

7 A I do not.

8 Q Do you know if there was a contract between Smith or  
9 Echelon and Renewable Resources Group?

10 A I don't recall how they were contracted.

11 Q Did you, yourself, Mr. Swiller, have any contact  
12 with anybody at NRG Systems about this project?

13 A No.

14 Q Okay. If anybody at Renewable Resources did have  
15 contact with NRG Systems, would that have been Mr. Kaschak  
16 or Mr. James?

17 A That would be my -- that would be my speculation,  
18 yes, that they would be the ones.

19 Q Would there be anybody else from Renewable  
20 Resources -- and when I say Renewable, I'm actually  
21 including Western Development as well. It's my  
22 understanding that it's the same thing.

23 A Sure. Maybe Ms. Frates.

24 Q Ms. Frates. Okay.

25 MS. VAN DER PUTTEN: I think that's all I have.



1 Thank you.

2 THE WITNESS: Thank you.

3

4 EXAMINATION BY MS. DELANOY

5

6 BY MS. DELANOY: Hi, I'm Talia Delanoy, I represent  
7 Delta Wetlands. I just have some clarification questions  
8 for you.

9 A Sure.

10 Q Is it true that you never sought any direction from  
11 Delta Wetlands regarding any specifics about the  
12 installation of the tower?

13 MR. DONAHUE: Are you talking about him personally?  
14 Mr. Swiller, personally?

15 Q BY MS. DELANOY: Let's start with you.

16 A No, I don't think that's true.

17 Q And are you aware of --

18 A Wait, sorry. Can you ask your question again?

19 Q Sure. If you let me just start foundationally then.

20 A Okay.

21 Q Delta Wetlands hired RRG, WDS, to manage parts of  
22 the property, including wind development and water storage  
23 development.

24 A That's correct.

25 Q And so starting with you, you didn't seek any advice

1 from anyone on Delta Wetlands as to how to go about the  
2 selecting of a wind project for the property. True?

3 A Well, I mean, if I understand your question, we  
4 couldn't have moved forward on the project without  
5 discussing it with them, because they are the project  
6 owner and the landowner. So I'm not sure --

7 Q Yeah.

8 A Okay.

9 Q I can rephrase it.

10 A Okay.

11 Q My question isn't about whether Delta Wetlands gave  
12 you their approval to proceed.

13 A Okay.

14 Q It's whether you saw input from them on how to  
15 proceed, meaning looking for an installer, looking for a  
16 developer, like that.

17 A I'm sure -- I'm not sure that we -- correct, I'm not  
18 sure we sought their approval on how to bring people in.

19 Q So as far as you know, WDS, RRG didn't call up Dave  
20 Forkel and say, "Who would you recommend we use to install  
21 a met tower?"

22 A I'm not sure we did it. Dave, obviously, was --  
23 knew a number of contractors and engineers who could  
24 design it. So Dave's an engineer. I'm not sure that we  
25 didn't, I can't recall that we did either.

1 Q Have you seen any documentation to the effect that  
2 Dave Forkel personally recommended anyone involved with  
3 the actual erection of the tower?

4 A I have not.

5 Q Okay. And Crystal just mentioned conference calls.  
6 There has been some testimony about weekly conference  
7 calls that you ere involved in that specifically related  
8 to WDS's involvement as project manager.

9 Are you recalling participating in any conference  
10 calls like that?

11 A Yes.

12 Q And do you recall those calls dealt more with status  
13 of the project in general, as opposed to specifics about  
14 the met tower installation?

15 A Yeah. It was more focused on the water project and  
16 more focused, generally, on the status of that. That's  
17 correct.

18 Q Do you recall anyone from Delta, meaning Dave Forkel  
19 or Laura Wessein or anyone else, asking whether visibility  
20 balls or lights or anything like that were necessary for  
21 these towers?

22 A I do not.

23 Q Have you ever been involved in anything related to  
24 legislation that applies to the Delta Wetlands Properties?

25 A Legislation that applies to the Delta Wetlands? I

1 mean, there is legislation, relative to water storage that  
2 we monitor. Is that -- is that what you're asking? I'm  
3 not --

4 Q Well, there was a reference to it in a deposition,  
5 and I'm just wondering if you have more detail about that.

6 A I mean, we monitor legislation, obviously, you know.  
7 For example, this year with the drought, there are issues  
8 that the California legislature covers related to it. But  
9 I don't recall specifically getting involved in  
10 legislation related to the project or initiating it more  
11 reactive than proactive.

12 Q Did you understand at the time that the whole  
13 discussion about the wind-energy project was going on that  
14 Delta Wetlands didn't have any experience with wind-energy  
15 projects?

16 A Yes.

17 Q And so you understood that they were looking to you  
18 for advice, or at least for connections to outside vendors  
19 as it related to the development of that wind project?

20 A I can't speak to what they were looking for us to  
21 do. But, you know, we brought to them what we thought  
22 would be a viable project.

23 Q Well, let me say it a different way.

24 A Okay.

25 Q Did they communicate to you that they were looking

1 for RRG, WDS's advice in connection to vendors in order  
2 for the development of this wind project to go forward?

3 A I don't know if they put it specifically as such.  
4 They were looking for us to create value on the project.

5 Q I think you mentioned earlier something about your  
6 expectation that Dave Forkel was going to perform site  
7 visits. Do you recall that testimony?

8 A He's on site at the project, yes.

9 Q Right. Did you and he ever have a specific  
10 agreement that he would stop by every so often to check  
11 out the tower?

12 A Not that I recall.

13 MS. DELANOY: I have no more questions. Thank you.

14 THE WITNESS: Thank you.

15 MR. DONAHUE: Anyone else?

16 MR. BRASCH: This is Terry, I have a few.

17 MR. DONAHUE: Okay.

18 MR. BRASCH: Do you hear me okay?

19 MR. DONAHUE: Yes. Go ahead.

20 MR. BRASCH: Okay.

21  
22 EXAMINATION BY MR. BRASCH

23  
24 BY MR. BRASCH: Thank you, Mr. Swiller. My name  
25 Terence Brasch. As I mentioned before, I represent Adam

1 R. Smith and Echelon Environmental Energy.

2 Q I believe you testified earlier that you do not know  
3 who made the decision to hire Echelon; is that correct.

4 A That's correct.

5 Q And I believe you also testified that you think that  
6 they were hired by Delta Wetlands project; is that  
7 correct?

8 A Um - the project entity. I don't know who entered  
9 into the contract with them.

10 Q Okay. So just to clarify: You do not know who  
11 actually hired Echelon?

12 A I -- I don't recall the contract.

13 Q Okay. But you believe there was some sort of  
14 contract between Echelon and another project participant?

15 A That's my expectation, yes.

16 Q Okay. You never saw a physical contract or any of  
17 its terms?

18 A I don't recall it, no.

19 Q Okay. Did you ever personally speak to Adam Smith?

20 A Not that I recall, no.

21 Q Do you know when - whichever party entered into a  
22 contract with Echelon, when that contracting occurred?

23 A Uh - I mean, just going back through the history,  
24 probably around 2008, 2009. I'm just following the  
25 timing.

1 Q Nothing more specific than that?

2 A No, sir.

3 Q Okay. And you never visited the Webb Tract Island;  
4 is that correct?

5 A That's correct.

6 MR. BRASCH: Okay. I think that's all I have.

7 Thank you, Mr. Swiller.

8 THE WITNESS: Okay. Thank you.

9 MS. VAN DER PUTTEN: I have one more question.  
10 Sorry. It's Crystal Van Der Putten, for the record.

11

12 EXAMINATION BY MS. VAN DER PUTTEN

13

14 BY MS. VAN DER PUTTEN: I just wanted to clarify or  
15 get some clarification, Mr. Swiller. Because I don't  
16 think I heard the answer to this.

17 Q I think Mr. Dreyer asked you earlier if Mr. Smith or  
18 Echelon provided any input in the land use permit  
19 application. Do you remember that, or do you have any  
20 recollection of whether Smith and Echelon provided input  
21 for that land use permit application for the met tower on  
22 the Webb Tract?

23 MR. DONAHUE: I think you asked and answered that.

24 MR. BRASCH: Yeah. This is Mr. Brasch. I'm going  
25 to object that it's asked and answered, as well.

1 MR. DONAHUE: You actually asked that question.

2 MS. VAN DER PUTTEN: I thought I asked it as to NRG.

3 I didn't ask it as to Smith and Echelon.

4 MR. DONAHUE: I think so, but do it again.

5 MS. VAN DER PUTTEN: Regardless. I apologize if  
6 it's redundant.

7 THE WITNESS: It's the same answer, you know,  
8 Mr. Kaschak and Mr. James would have been the one. I  
9 don't know to what level they participated in the permit  
10 process.

11 MS. VAN DER PUTTEN: Okay. Thank you.

12 THE WITNESS: Sure.

13 MR. DONAHUE: All right. Thank you.

14 THE VIDEOGRAPHER: This concludes the deposition.  
15 We're off the record at 2:31.

16 (Deposition ended at 2:31 p.m.)  
17  
18  
19  
20  
21  
22  
23  
24  
25



WITNESS' CHANGES OR CORRECTIONS

NOTE: If you are adding to your testimony, print the exact words you want to add. If you are deleting from your testimony, print the exact words you want to delete. Specify with "Add" or "Delete" and sign below.

Deposition of: Jacob Ari Swiller  
Case Title: Allen v NRG, et al.,  
Date of Deposition: February 18, 2014

I, \_\_\_\_\_, have the following corrections to make to my deposition.

Page	Line	Change, Add, Delete
------	------	---------------------

[illegible]

1 Pursuant to Section 2025 of the Code of Civil Procedure of  
2  
3 the State of California, I hereby certify that I have read  
4 my deposition transcript, made those changes and  
5 corrections that I deem necessary, and approve the same as  
6 now true and correct.

7 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

8  
9  
10  
11  
12 \_\_\_\_\_  
13 Jacob Ari Swiller  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER'S CERTIFICATE

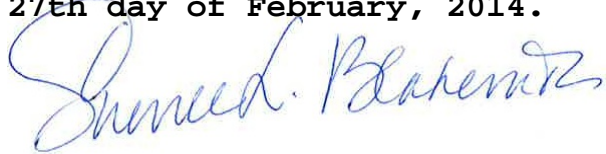
I hereby certify the witness in the foregoing  
deposition,

Jacob Ari Swiller

was duly sworn by me to testify the truth, the whole  
truth, and nothing but the truth in the within-entitled  
cause; said deposition was taken at the time and place  
herein named; the testimony of said witness was reported  
by me, a duly Certified Shorthand Reporter and  
disinterested person, and was thereafter transcribed into  
typewriting.

I further certify I am not of counsel or attorney  
for either or any of the parties to said deposition, nor  
in any way interested in the outcome of the cause named in  
said caption.

Dated and signed this 27th day of February, 2014.



SHERREE L. BLAKEMORE  
Certified Shorthand Reporter  
CSR NO. 7144

ROYAL REPORTING SERVICES, INC.  
900 Howe Avenue, Suite 150  
Sacramento, California 95825  
(916) 564-0100

February 27, 2014

Jacob Ari Swiller  
C/O DONAHUE DAVIES LLP  
Attorneys at Law  
P.O. Box 277010  
Sacramento, CA 95827  
ATTN: James Donahue, Esq.

Reference No. 17233-2576

Dear Mr. Swiller:

The original transcript of your deposition in the above captioned matter, taken on February 18, 2014, is now prepared and filed in our offices.

If you wish to review your deposition transcript and sign it, please contact us. You have 35 days from the receipt of this letter to review and make changes to your deposition.

If you do not wish to review your deposition, please sign in the space provided below and return this letter to us.

Very truly yours,

  
SHERREE L. BLAKEMORE, CSR #7144

cc: All Counsel

\_\_\_\_\_  
Jacob Ari Swiller

\_\_\_\_\_  
Date

Royal Reporting Services, Inc.  
Certified Shorthand Reporters  
900 Howe Avenue, Suite 150  
Sacramento, California 95825  
(916) 564-0100

DATE:  
REF. NO:17233-2576

DREYER, BABICH, BUCCOLA,  
WOOD, CAMPORA, LLP  
Attorneys at Law  
20 Bicentennial Circle  
Sacramento, California 95826  
ATTN: ROGER A. DREYER Esq.

IN RE: Allen v NRG, et al.,  
DEPOSITION DATE: February 18, 2014  
DEPOSITION OF: Jacob Ari Swiller

Dear Mr. Dreyer,

With regard to the original transcript of the  
above-referenced matter, the following action has been  
taken:

- ( ) The sealed original transcript is being forwarded  
to your offices.
- ( ) The witness declined to read his/her transcript
- ( ) The witness has read and signed the transcript
- ( ) The witness has submitted the attached changes
- ( ) Our office has no record of the witness viewing  
the deposition
- ( ) See attached

SINCERELY,

Royal Reporting Services, Inc.

ENCLOSURE

cc: All counsel

	<b>10th</b> 105:15	<b>173</b> 4:6	83:6 94:20 174:24	
<b>\$</b>	<b>11</b> 5:6 12:19 14:11 106:19,20 127:2	<b>17th</b> 109:3	<b>2009</b> 98:24 113:5 114:1 150:21 174:24	<b>3</b>
<b>\$1,000</b> 107:11	<b>112</b> 4:23	<b>18</b> 4:16 6:11 80:24 83:5 84:8 129:10,11	<b>2010</b> 8:22 97:8,13 98:24 99:10,23 100:6 101:11,20,22 102:5,7,21 103:2 106:23,24 107:10 108:15 110:17 111:15 114:13,19 115:18 116:22 117:19 118:8,17 120:16 121:19 122:22 150:25	<b>3</b> 25:3,4 143:16 <b>3-</b> 69:17,20 70:6 <b>30</b> 36:18 <b>300</b> 30:20 <b>30s</b> 44:10,12 <b>30th</b> 113:5 <b>31st</b> 121:19 <b>3rd</b> 3:13
<b>\$1,250</b> 107:19	<b>116</b> 4:24	<b>180</b> 3:5		
<b>\$1,500</b> 107:21 108:4	<b>11:02</b> 6:12 7:1	<b>1835</b> 104:16 105:5		
<b>\$275</b> 107:9	<b>11th</b> 128:18 135:1,9	<b>18th</b> 7:2 71:21 83:6 98:24 143:15		
<b>\$4,000</b> 69:18,20 70:6	<b>12</b> 109:19,20 110:15	<b>19</b> 5:7 131:18,19,20 132:22		
<b>\$5,000</b> 107:19	<b>12,000</b> 30:21	<b>1960</b> 107:2		
<b>\$750,000,000</b> 126:5	<b>121</b> 4:25	<b>1962</b> 109:3		
	<b>126</b> 5:3	<b>197</b> 65:9	<b>2011</b> 5:6,7,10 8:22 32:6 36:2 60:18 62:17 64:9 69:7 85:16 106:15 127:2 135:9,24 139:9,23 141:15 149:16,22 152:17 153:12 155:9,17 158:12,16 160:18 163:7	<b>4</b>
<b>-</b>	<b>1269</b> 121:17	<b>197-feet</b> 90:17		
<b>---o0o---</b> 3:20 5:14 6:23	<b>128</b> 5:4	<b>1970</b> 116:22		<b>4</b> 25:5 <b>43</b> 22:14 <b>45</b> 44:8 <b>4:39</b> 144:3 <b>4th</b> 76:15 150:21,25
	<b>129</b> 5:6	<b>1978</b> 126:24		
	<b>12:09</b> 71:16	<b>1986</b> 129:12		
<b>0</b>	<b>12:22</b> 71:20	<b>1997</b> 19:12		
	<b>13</b> 83:4 112:18,19	<b>1:43</b> 143:10	<b>2014</b> 6:11 7:2 71:21 143:15	<b>5</b>
<b>05</b> 105:22	<b>131</b> 5:7	<b>1:51</b> 143:14		
<b>07</b> 81:7 82:16	<b>1322</b> 121:18	<b>1st</b> 72:12	<b>2057</b> 137:17	<b>5</b> 33:11 71:25 72:1
<b>08</b> 27:9 62:5 83:12	<b>1341</b> 123:16		<b>2058</b> 143:19 146:23	<b>50</b> 77:24 122:13
<b>09</b> 97:6	<b>1342</b> 121:17	<b>2</b>	<b>2059</b> 143:20 146:22	<b>50-50</b> 13:12
	<b>137</b> 5:9		<b>2060</b> 144:1	<b>51</b> 79:9
<b>1</b>	<b>14</b> 4:24 5:10 116:18,19	<b>2</b> 21:2,4 71:22 72:3 143:10 147:15	<b>2064</b> 5:8 137:17	<b>55</b> 150:14
<b>1</b> 4:12 21:1,3 71:15 147:13	<b>1400</b> 3:9	<b>2/11/69</b> 8:18	<b>21</b> 4:8,9 5:10 94:18 149:11,12 159:4	
<b>1,000</b> 30:20	<b>149</b> 5:10	<b>20</b> 57:1 90:16,17 116:22 137:15,16 141:15	<b>21st</b> 106:24 110:20	<b>6</b>
<b>10</b> 4:19 105:11,12 150:11	<b>14th</b> 149:13,22 152:15,17,19 158:12,15,16	<b>200</b> 45:11,23 46:15 65:8,11 90:18 149:23 151:6,14	<b>225</b> 3:5	<b>6</b> 4:14 76:7,8
<b>100,000</b> 70:17,24 71:10	<b>15</b> 4:25 79:9 121:14,15	<b>200-foot</b> 45:12 92:14 148:10	<b>22nd</b> 112:4	<b>60</b> 65:9 80:24 81:2 92:10
<b>104</b> 4:18	<b>1501</b> 105:13	<b>2001</b> 22:22	<b>25</b> 4:10,11	<b>60-meter</b> 86:25 90:17 92:13,19
<b>105</b> 4:19	<b>1508</b> 105:13	<b>2004</b> 33:11	<b>2600</b> 3:18 7:4	<b>60M</b> 117:2
<b>106</b> 4:20	<b>1537</b> 76:13	<b>2007</b> 72:12 76:16 80:4 156:23 157:3	<b>27</b> 121:16	<b>61</b> 107:2
<b>108</b> 72:5	<b>16</b> 126:18,19	<b>2008</b> 4:16 24:9,11 37:19 40:17 41:20 42:5,11 43:10 44:4, 9,20 45:17 70:24	<b>2828</b> 6:13	<b>62</b> 107:2
<b>109</b> 4:21	<b>160,175</b> 4:4		<b>2:11</b> 159:24	
<b>10:00</b> 112:4 128:19	<b>169</b> 4:5		<b>2:13</b> 160:2	
<b>10:03</b> 127:21	<b>17</b> 17:12 128:22,23		<b>2:25</b> 149:23	<b>7</b>
<b>10:16</b> 113:6			<b>2:31</b> 176:15,16	<b>7</b> 4:15 79:6,7,18

<b>7144</b> 6:15	<b>accept</b> 111:10	<b>admonitions</b> 9:3	36:2 43:20 45:22	176:5
<b>72</b> 4:13	<b>accident</b> 144:13	<b>adversely</b> 125:23	59:17 60:6,21,25	<b>apparently</b> 110:18
<b>76</b> 4:14	155:6 163:7	<b>advice</b> 58:4 78:20	61:4 62:17 63:9	127:1 144:15 150:3,
<b>79</b> 4:15 126:24	<b>accordance</b>	87:4 89:20 165:19	64:16 68:15,21,25	5
127:21 129:3	148:12	169:25 172:18	71:23 87:24 97:9	<b>APPEARANCES</b>
<b>7th</b> 107:5	<b>accurate</b> 9:25	173:1	100:14 102:7	3:1
<hr/>	21:19 22:5 70:22	<b>advised</b> 87:2 149:4	103:14,15,22 104:4	<b>appeared</b> 6:16
<b>8</b>	77:18 80:20 91:21,	<b>aerial</b> 67:20	106:15 114:21	<b>appears</b> 79:10
<hr/>	24 92:3 116:14	<b>aerially</b> 156:6	117:20 118:3 127:4	80:3,4 84:11 122:10
<b>8</b> 4:3,16 83:2,3	138:7 148:18	<b>affiliated</b> 36:6	137:13 139:7	123:17 132:24
<b>80</b> 122:13 126:24,	<b>accurately</b> 88:21	<b>affixed</b> 145:8	143:17 156:5,16,19,	142:6 146:22
25	<b>accused</b> 100:24	<b>afternoon</b> 134:7	22	<b>applicant</b> 83:18
<b>81</b> 129:3	<b>acquired</b> 71:3	160:6	<b>Allen's</b> 46:1,6 49:8	150:22
<b>83</b> 4:17	<b>acquisition</b> 39:18	<b>ag</b> 7:15 12:12 30:5	88:7 158:18	<b>application</b> 43:8
<b>8:33</b> 143:23	<b>acres</b> 30:20,21	31:3 41:22 65:12	<b>allowing</b> 11:4	52:13,20 61:10,25
<b>8:35</b> 110:20	70:17,25 71:10	145:22	<b>almonds</b> 30:20	62:12 83:8,20,22
<b>8:45</b> 141:17 142:7	<b>act</b> 73:16 83:10	<b>agent</b> 83:10 144:14	<b>alternative</b> 12:12	84:17 88:20 89:3,25
<b>8th</b> 106:23 108:13	<b>action</b> 75:2 158:13	<b>agree</b> 89:11 96:16	23:16 41:11 47:1	91:20 92:4,9 95:5,9
<hr/>	<b>active</b> 13:25 75:13,	101:22 117:7	<b>altitudes</b> 43:8	104:21 115:10
<b>9</b>	17 146:9,18	<b>agreement</b> 4:19	44:14	119:25 120:3 137:9
<hr/>	<b>actual</b> 38:8 53:6	76:17 77:7 105:14	<b>ambiguous</b> 10:19	145:17 146:8,15
<b>9</b> 4:18 5:7 104:16,17	137:11 171:3	155:15 173:10	48:4 63:13 69:25	152:10 161:14,21
<b>90</b> 150:21	<b>Adam</b> 3:2 8:5	<b>agricultural</b> 29:21	101:12 145:25	162:8,12,17 167:2,
<b>90036</b> 3:14	57:15,17 58:6 59:14	30:7,14 39:25 40:9,	146:11 164:10,22	14 175:19,21
<b>94612</b> 3:5	162:24 163:5,17,24	14 41:21 42:25	166:18 167:5,22	<b>applications</b> 44:1
<b>95113</b> 3:10	173:25 174:19	43:5,16,24 44:15	<b>analysis</b> 123:7	52:24 91:18 145:13
<b>96</b> 19:10	<b>add</b> 26:13 74:22	56:12 64:14,19,23	<b>analyze</b> 82:2,11	150:6 162:21
<b>99</b> 72:5	109:24	65:6,7,23 66:25	122:6	<b>applies</b> 171:24,25
<b>99-108</b> 4:9	<b>added</b> 116:23	69:19,22 70:7 85:18	<b>analyzed</b> 98:6	<b>apply</b> 44:14 83:25
<b>9:11</b> 108:1	<b>additional</b> 9:9	86:4 138:23 139:13	<b>and/or</b> 70:16,18	<b>appraisal</b> 4:25
<b>9:54</b> 107:5	35:11 115:3,4	145:19	165:7	122:3,23,24
<b>9th</b> 135:24 141:15	<b>additionally</b> 134:9	<b>ahead</b> 16:7 66:6	<b>ANDRADA</b> 3:4	<b>approach</b> 72:21,
143:23 145:13	<b>address</b> 85:25	70:2 135:14 140:20	<b>Andy</b> 147:21,22	22,23 112:6
<hr/>	153:17	141:8 164:21 167:7	<b>anecdotal</b> 75:22	<b>approaching</b> 68:1
<b>A</b>	<b>addressed</b> 50:11	173:19	<b>anecdotally</b> 75:20	<b>approval</b> 78:25
<hr/>	<b>addresses</b> 137:18	<b>airplane</b> 69:1	<b>anemometers</b>	149:24 151:7,15,21
<b>a.m.</b> 6:12 107:5	<b>addressing</b> 76:20	<b>airplanes</b> 42:3	117:3	157:13,16,19
113:6	111:5 116:15	<b>Airport</b> 7:6	<b>Angela</b> 7:14	170:12,18
<b>ability</b> 21:11	<b>adjuster</b> 129:23	<b>Alexander</b> 130:14	<b>Angeles</b> 3:14	<b>approved</b> 158:9
138:22	<b>administrative</b>	<b>alfalfa</b> 30:21	12:16 18:2	<b>approximately</b>
<b>absolutely</b> 66:11	150:19	<b>allegation</b> 100:16,	<b>answers</b> 9:5 12:3	37:17
71:13 162:10	<b>administrator</b>	22	35:5 63:6 111:10	<b>April</b> 97:6,8,13
	129:23	<b>alleging</b> 100:13	<b>Antelope</b> 31:5,6,7	98:24 100:6 101:11,
		<b>Allen</b> 6:4 7:7,14	78:2,11	20,22 102:5,7,21
		8:20,21 32:6 35:20	<b>apologize</b> 21:5	103:2 106:24 107:9
			53:13 113:23 131:2	108:14 109:3
				110:16,20 112:4
				114:13,19 115:18

<b>area</b> 29:16,17,18,20 54:17 59:25 64:14, 19 65:6,8,12,13,23 69:19 71:8 75:13, 17,23 78:21,23 87:6 88:11 97:16 123:21 138:24 140:1	106:17	16,18,21,23 68:11, 12,14 83:11 87:24 88:5 93:3 94:8,15, 24 106:4 108:7 117:18 118:2 120:4, 7 122:22,24 135:10, 17,18 144:23,24 145:1 146:3 152:12, 14,15 155:2,14,17, 23,24 156:18 157:4, 6 160:20,23 161:17, 23,25 162:24 163:2, 5 169:17	<b>beat</b> 107:6 134:10	48:8,17 49:11,16,20 72:7,25 76:16 156:23 157:20 158:4,10
<b>areas</b> 44:15 54:25 81:15 88:18 139:14	<b>assume</b> 10:24,25 81:4 86:3 92:4 119:7 120:15 141:24		<b>began</b> 33:2	
<b>arguing</b> 140:13	<b>assumes</b> 106:10, 11 115:13 146:1,12		<b>beginning</b> 36:11 78:13 82:19	<b>branding</b> 13:17
<b>argumentative</b> 67:2 89:13 104:6 140:2	<b>assumption</b> 56:19,22 80:23 128:11 142:9 150:7 163:18		<b>begins</b> 71:22 143:16	<b>Brasch</b> 4:6 8:5 16:7 164:19 165:12 166:16,20 167:4 173:16,18,20,22,24, 25 175:6,24
<b>Ari</b> 6:18 7:8 8:16 46:2 63:10 71:22 80:6 101:10 110:20 143:16 149:23	<b>Atlantic</b> 6:12		<b>behalf</b> 7:9,16,20 20:18 95:15 151:1	<b>Brea</b> 3:13
<b>article</b> 25:2 126:25 127:8,14 129:17 137:18,19	<b>atmospheric</b> 137:25	<b>B</b>	<b>believed</b> 37:21 62:10 89:16	<b>break</b> 71:12,18 143:2,6,7,12,19 160:1
<b>asks</b> 108:3	<b>attached</b> 37:10 88:6 134:9 162:22	<b>back</b> 7:14 25:8 27:9 41:20 47:11 50:7 62:5 70:24 85:4 95:2 101:5 106:7 107:20 110:5 111:10 118:8 119:14 120:8 128:4 134:11 136:6 147:13 152:15 156:23 160:2 166:1 174:23	<b>benefit</b> 9:5 96:18, 20,23 123:8	<b>bright</b> 41:2
<b>aspect</b> 18:20 23:10 41:14 53:25 56:1 77:8	<b>attaches</b> 76:16	<b>background</b> 16:3 17:17 39:25 41:2,4, 17,21 50:25 52:7 53:21 63:25 134:2	<b>BENTLEY</b> 3:8	<b>bring</b> 25:20 85:16 170:18
<b>aspects</b> 20:20 21:18 22:3, 49:8 62:23 70:19 74:1	<b>attended</b> 72:24	<b>ballpark</b> 15:6 40:16 126:8	<b>big</b> 18:5 31:25	<b>bringing</b> 80:14 81:24 91:13 110:7
<b>assess</b> 112:14	<b>attention</b> 85:17 117:1 156:11	<b>balls</b> 29:11 64:20 67:19 68:13,19 96:23 135:7,11 171:20	<b>bill</b> 81:16	<b>broad</b> 84:3
<b>assessed</b> 84:22	<b>attitude</b> 147:16	<b>bankers</b> 113:7,21	<b>biographical</b> 22:1	<b>broadly</b> 23:18,19
<b>assessing</b> 54:25	<b>attorney-client</b> 106:12 154:4 159:5	<b>base</b> 65:9 88:17 151:8	<b>birth</b> 8:17	<b>brother</b> 80:16
<b>assessment</b> 80:24 99:1 107:12 108:22 126:3	<b>attorneys</b> 3:4,9 20:18 168:2	<b>based</b> 18:2 65:19 81:6 93:16 103:24 122:9 123:7 152:24	<b>bit</b> 12:7 13:17 14:24 22:2 166:11	<b>brought</b> 21:6 25:17 56:20 57:1,19 58:5 89:1 156:11 172:21
<b>asset</b> 47:1 73:10,11	<b>attractive</b> 117:10	<b>bases</b> 95:8	<b>Blakemore</b> 6:14 7:10	<b>budget</b> 80:25 81:4, 6 96:13 98:17,20 107:7,10,16,19 108:8 124:11 157:17,18 158:8
<b>assets</b> 50:6 113:4	<b>August</b> 150:21,25	<b>basically</b> 21:6 38:14 46:19 50:21 154:20	<b>bore</b> 18:25	<b>budgeted</b> 152:12
<b>assist</b> 38:4 72:10 87:5 89:1 139:15 167:1,6	<b>authored</b> 104:22, 25 149:14 158:20	<b>basis</b> 98:9 103:10	<b>blend</b> 150:12	<b>budgeting</b> 80:22
<b>assistance</b> 26:18 162:20	<b>authority</b> 151:17	<b>Bates</b> 107:1	<b>boiled</b> 132:15	<b>building</b> 55:2 167:17
<b>assisted</b> 55:7 167:13,16	<b>authorized</b> 83:9	<b>bear</b> 86:8	<b>bothered</b> 132:15	
<b>assisting</b> 92:3	<b>Avenue</b> 3:5,13		<b>bothering</b> 132:20	
<b>assists</b> 39:17	<b>aviation</b> 6:13 42:10,16,25 43:4,5, 24 45:1		<b>bottom</b> 79:22 80:17 84:9 85:8 90:16 107:5 112:23 121:18 123:22 129:18 132:24 137:22 144:1	<b>budgeted</b> 152:12
<b>Associates</b> 3:4 7:21 60:13,19	<b>aviator</b> 43:17 65:23 67:25 70:7,12		<b>bought</b> 18:6	<b>building</b> 55:2 167:17
	<b>aviators</b> 64:23 65:7 68:14,19 85:18 86:4		<b>Bouldin</b> 3:7 8:2 55:21,24 122:9,10, 11 128:13 136:22 144:8 145:24 146:4, 6 154:23,25 155:4, 9,13,18,23 156:8, 10,15,19 164:23	<b>Burkle</b> 19:9
	<b>aware</b> 23:2 31:21 32:7 35:19,22 40:9 43:12 44:13 45:22 48:13 51:14,18,19 52:12,19,23 53:6 54:1 66:13 67:10,		<b>box</b> 18:5	<b>Burkle's</b> 19:13
			<b>Boxer</b> 80:8	<b>business</b> 11:20 14:6,19,23 15:9 16:14 17:13 21:18 22:9 23:8 30:5,7,14 31:2,3 36:21 37:25 41:9,14 56:12 63:21 65:20 66:19 70:9, 10,20 93:7 140:5
			<b>Braffman</b> 4:13 46:21 47:9,16,22	<b>businesses</b> 133:21



<b>busy</b> 99:14 102:13	<b>carriers</b> 130:13	<b>clear</b> 119:15 145:18	<b>companies</b> 17:22 18:2 19:14,17,25	<b>connection</b> 8:21, 23 55:9,13 147:5 173:1
<b>buying</b> 111:21	<b>carrot</b> 31:8	<b>client</b> 160:12,15	<b>company</b> 3:7,17 7:4 8:3 12:21,23 14:15,16 17:1,15,21 18:4 20:12 21:16 22:21 30:23,25 31:18,24 32:7 33:24 34:3 37:1 38:5 50:1, 10 57:25 58:23 61:9 63:3 66:19 69:14 72:10 81:20 85:12 100:13,22 105:17, 20,25 106:2 111:16 115:8 118:12 130:17 133:16,17, 21,23 156:5,14	<b>connections</b> 172:18
<b>C</b>	<b>carry</b> 86:19	<b>Clinton</b> 18:11 19:8		<b>consent</b> 156:3
<b>CA</b> 3:14,18	<b>case</b> 8:23 24:2 83:5 89:16 100:12 140:15	<b>Clinton's</b> 17:20		<b>consequences</b> 132:17
<b>calendar</b> 94:21	<b>catch</b> 167:8	<b>close</b> 34:19 43:17 57:1 70:23 143:5		<b>considerably</b> 76:5
<b>California</b> 3:5,10 6:1,14 7:5,6 12:13, 16 13:23 17:9 27:18 42:23 50:11 73:15 109:6 111:2 113:9, 16 117:10 172:8	<b>category</b> 16:1	<b>CLV</b> 3:19		<b>considered</b> 166:2, 7
<b>call</b> 27:20 55:13 57:8,12 102:22 120:15 128:1 133:3 136:5 142:10,17,18 147:11 170:19	<b>caucus</b> 19:7	<b>co-founder</b> 21:20		<b>considers</b> 92:12
<b>called</b> 6:20 17:22 32:14 37:8 54:13 67:23 87:3 110:21 111:17 119:8 133:10 134:7,11	<b>center</b> 8:25	<b>co-owners</b> 57:5 63:1		<b>consistent</b> 78:22 80:13 108:21 123:4
<b>calling</b> 120:11 126:16 133:5	<b>CEQA</b> 73:15,18	<b>Coast</b> 30:11 42:19, 21 47:11		<b>construct</b> 152:11 153:17 165:4
<b>calls</b> 61:11 65:16 66:3 67:2 69:25 89:13 92:20 96:10 121:2 144:6 147:2, 13 154:2,3 165:13 167:20 168:1,4,6 171:5,7,10,12	<b>Certified</b> 6:14	<b>Code</b> 11:4		<b>constructed</b> 155:3
<b>campaign</b> 18:13, 20 19:2,3,10	<b>chain</b> 109:16	<b>Cole</b> 4:13 14:10 32:14 33:10 34:18 39:19,22 40:23 41:13 46:18 59:10, 14 60:5 69:8 80:16, 18 83:9 101:10	<b>compare</b> 125:22	<b>construction</b> 115:4,11,22 116:13, 16 125:17 150:1 152:2,8
<b>campaigns</b> 17:21 18:11,12	<b>chair</b> 19:6	<b>Coles</b> 81:7	<b>competitors</b> 66:22	<b>consult</b> 123:11 166:3
<b>canyon</b> 68:18	<b>chance</b> 107:20	<b>collection</b> 94:20 107:11	<b>completely</b> 68:4	<b>consultant</b> 54:17 80:9 95:17 118:22 130:8
<b>capacity</b> 20:5 26:10 39:15 47:22 62:25 93:18 138:21 144:16	<b>change</b> 22:23	<b>college</b> 17:19 18:25	<b>completing</b> 167:1	<b>consultants</b> 91:13 165:16
<b>capital</b> 17:19 134:4	<b>changed</b> 116:24	<b>color</b> 29:8,10 137:24	<b>completion</b> 19:10	<b>consulted</b> 84:6
<b>captures</b> 25:7	<b>characterize</b> 137:5	<b>colors</b> 150:11	<b>compliance</b> 92:14	<b>consulting</b> 38:5
<b>carbon</b> 70:18	<b>CHARLES</b> 3:14	<b>comfortable</b> 67:1 159:8	<b>component</b> 118:5 132:19	<b>contact</b> 18:9 38:13 46:2 47:3 48:17 55:19 127:5 133:24 154:23,25 158:1 168:11,15
<b>cards</b> 108:17	<b>Charlie</b> 7:18 53:8, 10 85:23 153:21	<b>commencing</b> 6:12	<b>conceal</b> 66:12	<b>contacted</b> 112:13 144:5 154:3
<b>carrier</b> 130:21 131:12,15	<b>check</b> 91:24 99:22 108:19 173:10	<b>comment</b> 9:14 10:11 151:8	<b>concept</b> 25:21 45:11 75:5 109:10	<b>contacts</b> 133:22
	<b>checking</b> 144:11	<b>commenting</b> 10:12	<b>concerned</b> 82:17 93:23 99:8 118:17 131:16 132:2 153:25	<b>contained</b> 120:12
	<b>checks</b> 20:11	<b>common</b> 44:24	<b>concludes</b> 71:15 143:9 176:14	<b>content</b> 84:5,6
	<b>Cheers</b> 117:8	<b>communicate</b> 9:10 172:25	<b>conclusion</b> 61:12 62:9 89:14 114:13 122:23,25	<b>context</b> 33:20 148:2
	<b>choice</b> 66:24	<b>communicated</b> 59:12	<b>conditions</b> 137:25	<b>continuation</b> 121:7
	<b>chosen</b> 150:12	<b>communication</b> 83:11 143:22	<b>conference</b> 167:20 168:1 171:5,6,9	
	<b>circumstance</b> 10:8	<b>communications</b> 131:8 158:21	<b>confirmed</b> 144:11	
	<b>circumstances</b> 158:17		<b>Congress</b> 19:1	
	<b>city</b> 27:13,15,25 35:10		<b>congressmen</b> 45:7	
	<b>claim</b> 144:14,16		<b>conjunction</b> 151:22	
	<b>clarification</b> 108:11 169:7 175:15			
	<b>clarify</b> 174:10 175:14			
	<b>classifies</b> 122:11			

<b>continue</b> 114:10 117:9 120:18 123:11	<b>correct</b> 12:5,6 13:3 14:5,8,20 15:16,18, 23 16:18 18:10 19:22 21:24 22:6 23:5,12,13 24:5,7, 10,14,15 25:11 26:22 27:10 28:1, 15,25 32:5,25 33:8 34:1,7,10 36:9,13 37:14 38:9,17,20 39:11 41:8,16,19 42:6,14 45:2,25 47:5,8 49:14 50:2, 16,19 51:23 52:5 54:2 55:11,20 57:7, 11,14 58:11,17,21, 25 59:9 60:12,23 61:17 62:2,6,21,24 63:5,7 68:8 69:15 71:4,6,7,11 72:20 73:4 74:20,24 75:3, 15 76:4 77:2,3,19 78:1,5,10 80:2 81:19,25 82:15 84:4 85:7 86:24 87:18 89:7,9,10 90:12,23 91:19,22 93:11 95:18,24 96:5,6,22 99:1 100:10,11,15, 19,20 101:7 102:1 103:20,25 104:9 108:6,23 109:1 110:4,10,14,22 112:2,24,25 115:23, 24 118:20 120:14 121:13 125:3,6,9,24 126:22 127:6,24 128:9,15 130:9 133:15,25 135:22 136:2,12,17 141:10, 13 143:23 147:12, 14 150:7 151:5,20, 25 152:4 154:13 155:8 156:24 158:11 161:15,18 162:5 163:4 167:15 169:24 171:17 174:3,4,7 175:4,5	<b>Costa</b> 4:16 6:2 59:19 62:12 83:8,9, 20 144:10,22 145:5, 6 161:4,21 167:3, 14,18 <b>costs</b> 98:18 107:14 122:18 <b>counsel</b> 3:12 4:2 7:11,19 68:6 105:5 106:6 138:4 149:5 158:18,19,22 <b>count</b> 163:22 <b>counties</b> 51:6 92:5 <b>country</b> 13:23 87:4 <b>County</b> 4:16 6:2 59:19 62:12 88:24 92:9 120:1, 137:4,7, 12 144:9,10 146:18 148:13,19 149:2,24 151:6,15 161:4,21 167:3,14,18 <b>County's</b> 66:5 136:25 137:1 <b>couple</b> 9:9 133:10 166:1 <b>court</b> 6:1 7:9 9:5,17 11:23 <b>covered</b> 86:12 129:9 <b>covers</b> 172:8 <b>crack</b> 63:16,17,18 <b>crashed</b> 134:8 <b>create</b> 10:8 173:4 <b>created</b> 90:3 98:20 105:8 123:14 <b>creating</b> 14:22 85:1 119:2 <b>credibility</b> 10:12 <b>credits</b> 113:19 <b>Creek</b> 144:5 <b>crime/cops</b> 134:10 <b>critical</b> 141:17 142:5,7,12 <b>crop</b> 43:1,4,25 65:13 127:22 134:8	<b>cross</b> 79:18 <b>crossed</b> 29:18 <b>Crystal</b> 7:23 160:7 171:5 175:10 <b>current</b> 109:6 <b>cycle</b> 95:1 98:25 114:2 119:12 <hr/> <b>D</b> <hr/> <b>D-o-r-r-a-n-c-e</b> 53:18 <b>D.C.</b> 17:20 <b>danger</b> 64:3 <b>dash</b> 113:6 <b>data</b> 75:19 82:2,6, 11 94:10,13,20 95:6,14 97:10 104:9,13 107:11 108:25 109:5 114:10 119:13 120:21 121:6,7 122:8,10 164:6 <b>date</b> 7:2 8:17 24:14 71:21 97:4,12 106:24 143:15 150:25 152:16 <b>dated</b> 4:12,16 37:17 105:15 116:22 121:19 <b>dates</b> 100:3 <b>daughters</b> 8:20 <b>Dave</b> 4:23 53:15,16 56:14,16 112:22 128:6 141:17 144:4 170:19,22 171:2,18 173:6 <b>Dave's</b> 113:21 170:24 <b>day</b> 43:19 102:7 149:16 158:14 <b>day-to-day</b> 12:1,14 14:19 20:4 50:8,12 69:13 84:2 93:9,15 102:13 119:9 <b>days</b> 20:17 150:21	<b>Db</b> 3:17 <b>dba</b> 7:21 <b>de</b> 3:10 8:2 <b>dead</b> 88:16 <b>deal</b> 4:10 13:7 25:1 45:3 <b>dealing</b> 13:7 19:19 22:16 26:2,3 36:25 41:6 42:10 45:8 48:9 49:7 50:3 52:7 104:11 111:15 158:18,19 <b>dealings</b> 47:17 <b>deals</b> 44:25 73:24 74:1 121:22 127:4 <b>dealt</b> 49:7 55:23 171:12 <b>death</b> 46:6 49:8,9 88:7 100:13 139:7 158:18 <b>December</b> 80:3 105:15 121:19 122:22 <b>decided</b> 103:9 <b>decider</b> 157:18 <b>decision</b> 69:21 72:18 86:25 95:6 99:3 103:17,21 104:3,4 112:14 118:18 119:4 120:17,21 121:8,9 133:12 139:17 141:5 165:11 174:3 <b>decisionmaking</b> 63:11 157:25 <b>decisions</b> 82:12 87:16 103:4 138:22 155:12 <b>defendant</b> 11:7 140:15 <b>Defendant(s)</b> 6:9 <b>defendants</b> 3:2,7 8:5 <b>deferring</b> 157:11 <b>definition</b> 74:15
--	--	---	--	---

<b>definitively</b> 121:9	<b>describe</b> 12:8 14:18 18:24 19:13 20:2 29:7,16 35:8 87:15 137:12	173:2	126:1	140:7,20,23 141:1, 8,19,21 142:24 143:5,18 144:19 146:7,17 149:13 154:5,9 158:24 159:6,11,16,23 175:17
<b>Delanoy</b> 4:5 7:25 143:2 169:4,6,15 173:13	<b>describes</b> 16:16 85:9	<b>devices</b> 46:4,10 64:18 65:14,24 67:19 69:10 86:23 87:21 164:8	<b>Donahue</b> 7:16 10:18 25:6 48:3,11 60:7 61:11 63:13 65:16 66:3 67:2 68:5 69:24 71:12,14 79:12,15,17,20 85:22 88:4 89:13 90:4,6 92:21 101:12 102:4 104:6 106:11 115:13 121:2 124:17 126:15 130:2,23 131:2,4,9 135:12 138:25 140:2,19,21,25 141:7,20 143:3,8 144:18 146:1,13 154:2,7 159:2,9 164:11,23 166:18 167:22 169:13 173:15,17,19 175:23 176:1,4,13	<b>driving</b> 69:1 <b>drought</b> 172:7 <b>Due</b> 122:16 <b>duly</b> 6:21 <b>dumb</b> 147:15 <b>Duncan</b> 14:10 <b>dust</b> 43:1,4 <b>duster</b> 127:22 134:9 <b>dusters</b> 43:25 65:13 <b>DW</b> 107:7,10 147:21 <b>DWS</b> 58:7 <b>dying</b> 127:23
<b>Delta</b> 4:9 7:25 24:2, 6 26:23 33:3,4,7 34:2,3 36:7,23 38:1, 7 39:12 43:13 46:24 47:6 50:3 51:11,20 52:4,10,25 55:5,10 56:2,20 57:9 58:1,8 71:5 72:4,10,22 84:15,20,21 93:16, 20 107:17 109:4,25 110:11 111:3 116:11,21 120:22 124:4,15 126:11 129:23 130:6 134:7 144:4 146:6 155:10, 11,15 156:25 157:2 169:7,11,21 170:1, 11 171:18,24,25 172:14 174:6	<b>description</b> 20:4 21:19 22:5,10 84:16 85:9 <b>design</b> 170:24 <b>designed</b> 64:6 <b>desire</b> 75:12 <b>desk</b> 69:13 <b>detail</b> 18:21 20:6 172:5 <b>detailed</b> 10:5 <b>details</b> 73:6 <b>determination</b> 114:24 115:8 <b>determine</b> 81:13 82:7 84:24 98:17 <b>determined</b> 94:22 114:8 <b>determines</b> 25:10 <b>develop</b> 12:11 13:20 15:10 16:24 27:19 28:6 33:20 34:8,20 41:10 57:20 81:8 112:7 <b>developed</b> 25:14, 32:15 35:14 37:25 42:9 <b>developer</b> 170:16 <b>developers</b> 32:13 77:17 <b>developing</b> 17:7 23:14 25:21 47:18, 23 77:24 98:13 <b>development</b> 12:10,25 13:15,21 14:2,22 22:20 23:3 34:24 39:18 47:17 50:5 70:18 80:19 98:15 103:10 113:2, 18 119:2 122:20 123:23 168:21 169:22,23 172:19	<b>discussed</b> 122:19 124:12,15 147:9 <b>discussing</b> 170:5 <b>discussion</b> 69:11 95:23 99:13 130:20 148:4 172:13 <b>discussions</b> 48:9 97:14 130:24 <b>dispute</b> 37:9,23 38:16 <b>dissolved</b> 22:22 <b>distinct</b> 19:2 <b>document</b> 4:10,11, 18,25 10:7 21:9 70:13 72:8 76:12 86:2, 90:3 98:11 104:15,21,22,23 105:2 121:19 122:3 126:6 <b>documentation</b> 124:14 171:1 <b>documents</b> 36:15, 18,21 85:24 100:5,7 101:9,18,21 124:23 <b>dollars</b> 125:15	<b>Donahue's</b> 9:6 <b>Donald</b> 6:13 <b>Dorrance</b> 53:15, 17,18 112:22,23 113:10 <b>Doug</b> 80:8 <b>Douglas</b> 6:13 <b>draft</b> 76:17 <b>draw</b> 117:1 <b>Dreyer</b> 4:3 7:13 8:4,12,14,19 16:5,8, 13 18:1 21:5 25:6 27:17,20,23 31:1,10 32:23 48:6,14 51:11 53:10,15,17,19,22 60:8 61:14 63:15 65:18 66:6 67:5 68:7,9 70:2 71:13, 24 72:2 76:9 79:8, 14,16,18,21 83:3 90:8 92:22 101:14, 16 102:5 104:8,18 105:13 106:14,21 107:2 112:21 115:18 116:20 121:16 124:19,22 126:18,20 128:24 129:12 130:3,5 131:6,20 135:14 137:17 139:1,6	<b>E</b> <b>e-mail</b> 4:14,15,20, 21,23,24 5:3,4,5,7, 10 37:11 55:16 76:11,15 77:4 79:11,21 80:4,12 81:6 106:21,23 107:5 108:13 109:3 110:15,17,18,19 112:3,21 113:5,7, 23,24 116:20 117:12,15,17 120:12 124:10 127:12,18,20,21 128:1,3,5,11 129:5, 7,12,19 130:12 132:4 133:2,7,11 134:12, 141:16 142:9 143:21,22 144:2,4,20,21,23,25 146:21,22 148:4 149:13,18 150:4,8 <b>e-mails</b> 36:23,24 37:6 45:11,16 77:1 79:25 101:3 106:22
<b>Delta's</b> 130:13	<b>Delta-76</b> 131:23	<b>demand</b> 13:24	<b>Democratic</b> 18:14, 15,18 19:7	<b>Dennis</b> 3:19 7:3
<b>densities</b> 123:19	<b>density</b> 122:12	<b>Department</b> 161:22	<b>depending</b> 20:15	<b>depo</b> 121:16
<b>Deponent</b> 3:12	<b>deposition</b> 7:8 11:3,8 21:1 71:22 72:3 83:6 100:10 143:16 172:4 176:14,16	<b>Der</b> 4:4 7:22,23 92:20 106:25 159:15,17 160:4,6,7 164:14,21,25 165:7, 166:21 167:7,24 168:25 175:9,10,12, 14 176:2,5,11		

128:4 129:13 147:4 158:21	<b>encourage</b> 76:3 86:16	<b>entities</b> 13:13 20:19 77:22 110:3 113:15	<b>evening</b> 143:23	<b>existing</b> 13:4 28:20 31:13 33:17 68:15	
<b>earlier</b> 32:3 84:1 86:12 89:15 95:10 104:14 109:10 110:6 127:13 144:2 162:18 166:6 173:5 174:2 175:17	<b>encouraging</b> 76:2 97:16	<b>entitle</b> 54:25	<b>event</b> 45:21 60:2 74:10 128:16 130:21 138:6 141:23 145:22 153:19	<b>expect</b> 37:13 91:24 92:1 118:13,25 165:9	
<b>early</b> 32:13 83:12	<b>encumbered</b> 156:2	<b>entitled</b> 9:23 34:19	<b>eventually</b> 18:6 32:15 34:22	<b>expectation</b> 12:2 90:15 92:1 93:14,17 165:25 173:6 174:15	
<b>East</b> 30:10 42:19 47:11	<b>end</b> 24:20 54:11 70:15 97:8 98:24 102:21 103:2 114:1 119:20 137:25	<b>entitlement</b> 51:10 73:9,11	<b>evidence</b> 104:7 106:10,11 115:14 140:19 146:2,12	<b>expected</b> 54:20 90:9 165:21,23	
<b>eastern</b> 113:7,21	<b>endeavors</b> 40:1 145:24	<b>entitlements</b> 51:6 74:2	<b>evolved</b> 47:3	<b>expense</b> 86:8 96:14	
<b>Echelon</b> 3:3 8:6 57:18,25 58:6,12 59:13 60:24 87:3,12 89:23 90:15 135:10 139:15,17 160:13 163:2,17 164:15 165:8,17,22 166:2, 7,13 167:1,13,16 168:9 174:1,3,11, 14,22 175:18,20 176:3	<b>ended</b> 176:16	<b>entitles</b> 14:1	<b>exact</b> 40:21 97:4,21 103:8 116:1	<b>experience</b> 8:25 9:20 23:6 40:9 43:4 49:25 52:1,20 54:16 82:5,23 113:8 139:5 165:15,17 166:11 172:14	
<b>Echelon's</b> 87:19 163:6,25 167:11	<b>energy</b> 3:3 8:6 12:12 23:11,14,15, 16,18,20 24:13 25:25 27:3,5,7,24 28:6,9 31:24 32:14 38:6 41:11 47:19,24 48:10 49:3 54:24 55:3 57:19 70:18 75:7 77:23 110:3 117:10 120:19 121:24 122:6 141:3 157:5 160:13 163:3 174:1	<b>entity</b> 13:4 17:13 22:20 23:3 32:13 34:4,20 38:4 44:25 47:3,4 55:21 111:16 112:1 125:11 157:22 174:8	<b>Examination</b> 4:2 8:12 169:4 173:22 175:12	<b>expert</b> 54:23 82:25 139:24 165:18	
<b>effect</b> 64:22 100:8 171:1	<b>engaged</b> 72:18 156:7	<b>environmental</b> 3:3 8:6 41:1,4,6 51:7 52:6 73:15,16 160:13 163:3 174:1	<b>excellent</b> 78:23	<b>expertise</b> 54:21,22 75:23 80:19 82:6,22 87:15 94:5 138:18 139:12,25 140:4 165:6	
<b>effectively</b> 109:4	<b>engagement</b> 156:9	<b>equipment</b> 28:6 150:12,14,15	<b>exchange</b> 4:14,15, 20,21,24 5:3 76:11 79:21 81:22 106:21, 23 110:15	<b>experts</b> 82:25 87:6 139:16	
<b>effort</b> 50:13 52:21 87:5 89:2	<b>engaging</b> 20:18	<b>equity</b> 17:22 116:3	<b>excited</b> 157:14	<b>expiration</b> 150:22, 24	
<b>efforts</b> 51:10 66:14,20	<b>engineer</b> 55:1 170:24	<b>ere</b> 171:7	<b>excluding</b> 131:4	<b>explain</b> 69:8 145:2, 3,9	
<b>Eisenhower</b> 132:25 133:16 136:8 144:7 148:23	<b>engaged</b> 72:18 156:7	<b>erect</b> 61:10 138:19 152:9	<b>excuse</b> 8:22 13:9 54:8 79:12 81:7 83:8	<b>explained</b> 156:16	
<b>electrical</b> 41:11 68:18	<b>engineers</b> 170:23	<b>erected</b> 64:6 98:23 138:13	<b>exhibit</b> 4:7 5:2 21:1,2,3,4,6 25:3,4, 5 71:25 72:1,3 76:7, 8 79:6,7,9,13 83:2, 3,4 104:16,17 105:11,12 106:19, 20 109:19,20 110:15 112:18,19 113:24 116:18,19 121:14,15 126:18, 19 128:21,22,23 129:10,11 131:18, 19,21 132:22 137:15,16 141:15 149:11,12 159:4	<b>exploring</b> 123:24	
<b>embedded</b> 125:21	<b>enhance</b> 13:20	<b>erection</b> 63:4 171:3	<b>excellent</b> 78:23	<b>exposure</b> 132:8,12	
<b>employed</b> 18:10 45:19	<b>enhancement</b> 164:8	<b>Esq</b> 3:6,10	<b>exchange</b> 4:14,15, 20,21,24 5:3 76:11 79:21 81:22 106:21, 23 110:15	<b>expressed</b> 156:3	
<b>employee</b> 18:19 39:14,16 41:3 50:25 53:20 80:8 93:21,23 95:16 112:24 116:9 133:17	<b>enhancements</b> 165:8	<b>essentially</b> 72:9 73:2 96:17	<b>excited</b> 157:14	<b>extended</b> 150:21	
<b>employees</b> 15:4,6 20:14,20 41:23 48:4 90:11 91:8 118:13	<b>entail</b> 164:4	<b>establish</b> 100:5	<b>excuse</b> 8:22 13:9 54:8 79:12 81:7 83:8	<b>extending</b> 152:23	
	<b>entails</b> 164:5	<b>Estate</b> 8:1	<b>exhibit</b> 4:7 5:2 21:1,2,3,4,6 25:3,4, 5 71:25 72:1,3 76:7, 8 79:6,7,9,13 83:2, 3,4 104:16,17 105:11,12 106:19, 20 109:19,20 110:15 112:18,19 113:24 116:18,19 121:14,15 126:18, 19 128:21,22,23 129:10,11 131:18, 19,21 132:22 137:15,16 141:15 149:11,12 159:4	<b>existence</b> 16:22 156:20	<b>extension</b> 150:23
	<b>entered</b> 105:16 155:15 174:8,21	<b>et al</b> 6:8	<b>existed</b> 44:5	<b>extent</b> 20:12	
	<b>entire</b> 50:10	<b>evaluate</b> 28:9 99:24	<b>EXHIBITS</b> 4:7 5:1	<b>externally</b> 13:16 39:4	
		<b>evaluated</b> 81:10 122:7	<b>exist</b> 69:5	<b>extra</b> 69:20 86:8	
		<b>evaluating</b> 23:10 82:6	<b>existence</b> 16:22 156:20		

<b>F</b>	13,18,23 156:15,19	<b>firm</b> 17:23 20:22 37:8 38:13 39:14,16 50:25 53:20 54:13, 18 57:20 70:16 87:2 110:12,23 165:3	<b>Forkel's</b> 121:16  <b>form</b> 36:19 113:16 164:20 166:17 167:5	<b>121:20</b>  <b>full</b> 27:22 107:9 108:14 109:5 123:16
<b>F-r-a-t-e-s</b> 14:10	<b>fashion</b> 11:5 36:20 63:4 113:16	<b>firm's</b> 22:4	<b>forward</b> 103:5 120:17 124:20 157:13 170:4 173:2	<b>fully</b> 34:19
<b>FAA</b> 44:20 45:3,8, 11,23 46:3,9,13 65:10 86:22 87:20 90:18,19 92:12,14 149:24 151:21	<b>fatality</b> 131:16 132:2,11,13	<b>firms</b> 89:16	<b>forwarded</b> 127:9, 14	<b>functioning</b> 119:3
<b>FAA'S</b> 148:10	<b>features</b> 164:17  <b>February</b> 5:7,10 6:11 7:2 71:21 135:24 143:15,23 149:13,22 152:15, 17,19 158:12,15,16	<b>fit</b> 41:5 81:16	<b>found</b> 22:15,19 25:2,13,15,16 58:12 60:21 61:1 70:13 106:6 127:11,24 135:21 136:20 155:6,7	<b>funding</b> 157:21
<b>face</b> 29:19 122:18	<b>federal</b> 44:25 73:12 76:1	<b>five-minute</b> 143:7	<b>foundation</b> 41:1 135:12 164:20 166:17 167:5	<b>fundraising</b> 19:16, 22,24
<b>facility</b> 84:23	<b>fee</b> 35:13 37:23	<b>fixed</b> 118:23	<b>foundationally</b> 169:19	<b>funds</b> 19:17
<b>fact</b> 11:13 92:18 101:21 103:2 106:11 111:23 117:2 122:18 132:9 136:18 137:23 140:7 149:6 153:9	<b>feel</b> 61:23	<b>flashing</b> 64:20 67:24 69:3	<b>founder</b> 21:15,22	<b>future</b> 84:25
<b>facts</b> 104:7 106:10 115:13 146:1,12 153:6	<b>feet</b> 43:18 45:11,23 46:15 65:8,9,11 90:18 149:23 151:6, 14	<b>flat</b> 88:16	<b>Fourteen</b> 15:8	<b>G</b>
<b>fair</b> 22:10 61:20, 63:21 96:24,25 100:24,25 104:8 110:9 122:12,16 123:12,18 125:2 126:1 141:12 152:21 167:12	<b>felt</b> 130:17	<b>flew</b> 44:13	<b>frame</b> 25:8 33:9 36:24 56:23 76:22 80:13 101:5 102:3 108:8 112:9 124:3 127:1 141:22 152:23	<b>G-h-i-g-o-s</b> 111:1
<b>fall</b> 14:25	<b>fence</b> 35:11	<b>Floor</b> 3:13	<b>Frates</b> 4:13 14:10, 14,21 15:17 16:20 17:3,11,14 21:23 25:14 34:21 39:5,7 42:15 46:7,18,20 48:18 50:14,18,20 51:14 59:6,10,14 60:5 61:23 69:8 72:7,13 76:15,21 79:23 81:8 82:17,21 89:4,25 95:21 101:10,19 105:24 107:18 108:4 112:3, 10 151:13 154:16 168:23,24	<b>Gail</b> 7:14
<b>falls</b> 13:14	<b>Fernando</b> 3:9	<b>flown</b> 42:3,8	<b>Frates'</b> 39:10 105:22	<b>gal</b> 131:11
<b>familiar</b> 42:25 79:5	<b>fiancée</b> 19:11	<b>fluid</b> 25:22	<b>frequent</b> 92:25 93:2,13,19,24	<b>game</b> 17:5
<b>family</b> 100:12 132:10,18	<b>figure</b> 53:12	<b>fly</b> 43:5,7,25 65:8	<b>friend</b> 55:18  <b>front</b> 11:23 81:14	<b>gathering</b> 114:10
<b>farm</b> 30:6 31:14 82:8,13 110:2 145:19	<b>file</b> 105:7	<b>flying</b> 7:15 43:17 65:7 69:22 130:14	<b>Frates'</b> 39:10 105:22	<b>gave</b> 9:3 86:22 89:24 97:12 120:4 170:11
<b>Farm's</b> 128:13	<b>filled</b> 88:21 89:25 162:11	<b>focus</b> 25:24 104:19 111:15	<b>friend</b> 55:18	<b>general</b> 18:22 20:4, 10,21 50:1 56:24 57:9 58:3 60:2 88:13 97:21 100:2 103:9 113:17 124:18 144:16 157:1 171:13
<b>farmed</b> 84:22 86:6	<b>filling</b> 92:3	<b>focused</b> 50:5 131:14 132:10 171:15,16	<b>friend</b> 55:18	<b>generally</b> 16:16 19:13 45:14 48:1,6, 7 63:9 81:18 93:20 97:24 104:18 166:8 171:16
<b>farmers</b> 31:9	<b>final</b> 108:18,20	<b>folks</b> 15:24 17:1 24:3 26:23 33:15 36:12 41:5 43:12 46:18 49:1 57:5 70:13,24 74:4,21 76:18 78:9 79:4 108:24 114:23 115:5,11 123:9 148:24 149:7 152:6, 12 157:4,21 158:9	<b>front</b> 11:23 81:14	<b>generated</b> 75:10
<b>farming</b> 3:7 8:3 30:13 78:25 79:1,4 98:13 145:19,23,24 146:9,18 156:8	<b>financial</b> 15:25 19:19 125:11 132:8, 12	<b>follow</b> 11:10 99:18, 19 115:7	<b>front</b> 11:23 81:14	<b>generates</b> 74:25
<b>farmland</b> 31:10 70:17,25 71:3,8	<b>financing</b> 80:19	<b>Food-4-less</b> 18:7	<b>front</b> 11:23 81:14	<b>gentleman's</b> 38:12
<b>Farms</b> 55:21,24 154:23,25 155:4,10,	<b>find</b> 9:21 15:20 21:11 25:19 34:22 36:1 77:13 101:9, 18,21 104:25 147:15 149:14 154:12,19 156:5	<b>forego</b> 103:10,18	<b>front</b> 11:23 81:14	<b>gestures</b> 9:11
	<b>finding</b> 17:7 25:9 62:19	<b>forget</b> 38:12 153:24	<b>front</b> 11:23 81:14	<b>Ghigos</b> 110:21 111:6,8
	<b>fine</b> 10:3 40:16 66:2	<b>Forkel</b> 4:23 56:14, 18 57:3 58:2,4 61:3 93:15 128:5 144:4, 15 154:16 156:13, 15 170:20 171:2,18 173:6	<b>front</b> 11:23 81:14	<b>Gigi</b> 7:20
	<b>finish</b> 140:11	<b>Food-4-less</b> 18:7	<b>front</b> 11:23 81:14	<b>gist</b> 148:15
	<b>finished</b> 143:5	<b>forego</b> 103:10,18	<b>front</b> 11:23 81:14	<b>give</b> 18:22 20:4,8 25:6 75:1 102:23

123:6	133:22 157:23	<b>highest</b> 122:21	<b>hypotheticals</b> 66:4	<b>Incomplete</b> 165:13
<b>giving</b> 51:6 112:10 120:11 137:8	<b>guys</b> 14:3 15:12 21:7 50:22 84:13 141:21 150:5 152:17	<b>highly</b> 163:22		<b>increase</b> 75:11
<b>glare</b> 145:7		<b>Hill</b> 17:19 134:3	<hr/> <b>I</b> <hr/>	<b>INDEX</b> 4:1,7
<b>global</b> 4:11 20:9		<b>hilly</b> 29:18		<b>indicating</b> 127:13
<b>goal</b> 84:23	<hr/> <b>H</b> <hr/>	<b>hire</b> 40:21,24 59:4 75:1 89:15 139:17 174:3	<b>i.e.</b> 147:21	<b>indication</b> 65:14
<b>Goldman</b> 77:21,23	<b>habitat</b> 29:25	<b>hired</b> 34:3 38:4 40:8,18,20,22 57:25 58:1,2 106:7 130:5 139:15 155:12 156:5,10 169:21 174:6,11	<b>idea</b> 10:4 18:22 45:17 46:2 74:21 75:9 81:1 109:21 150:18	<b>individuals</b> 15:25 43:24 154:18
<b>good</b> 7:2,22 35:12 40:7 41:3 53:11 54:25 71:12 74:20 78:22 82:7 97:22,25 98:3,10,12 109:10 119:24 157:10 160:6	<b>handle</b> 84:2	<b>hires</b> 140:17	<b>identified</b> 156:16 161:13	<b>industry</b> 14:6 40:10,14 41:21,22 43:24 44:5,6 89:18
<b>gotcha</b> 13:18	<b>handled</b> 19:15	<b>history</b> 62:20 174:23	<b>identify</b> 7:11	<b>info</b> 134:6
<b>governed</b> 73:15	<b>handles</b> 133:20	<b>hit</b> 135:15	<b>identity</b> 66:10	<b>information</b> 59:2, 3,13 81:1,10 88:23 89:12,24 90:13 91:10,23 95:8,20 96:1 102:9,24 119:22 120:12 121:5 137:4, 138:8 148:16 154:15,20
<b>government</b> 44:25 76:1,2	<b>happen</b> 15:2 138:8	<b>hitting</b> 127:22	<b>ignores</b> 66:4	<b>informed</b> 97:21,24 117:19 118:4 127:20
<b>grand</b> 3:5 80:24 81:2	<b>happened</b> 22:24 24:9 27:12 101:5 125:2 127:5,18 128:2 138:6 145:23 151:10 154:1,12,21 158:14	<b>hobby-wise</b> 42:10	<b>impact</b> 73:17 125:23 130:14	<b>initial</b> 25:18 33:12
<b>granted</b> 148:13 150:20	<b>happening</b> 121:12 133:4 148:7	<b>hold</b> 44:7	<b>implications</b> 123:25	<b>initially</b> 73:2
<b>Grape</b> 30:23,25	<b>happy</b> 10:21 63:16	<b>holding</b> 12:23 21:16 27:22 160:9	<b>importance</b> 10:15 66:8	<b>initiating</b> 172:10
<b>grass</b> 29:19	<b>harvesting</b> 30:8	<b>honest</b> 11:21 12:2 131:17 146:19	<b>important</b> 9:19 11:20 103:9 107:13	<b>input</b> 136:14 161:20 167:17 170:14 175:18,20
<b>gray</b> 65:25 67:14 137:24	<b>hats</b> 133:19	<b>honestly</b> 146:20	<b>impossible</b> 123:23	<b>inquiry</b> 136:7 152:24
<b>grazing</b> 29:23	<b>hazard</b> 64:3	<b>hook</b> 154:1	<b>impressed</b> 72:25	<b>insignia</b> 84:13
<b>great</b> 24:25 160:10, 11	<b>head</b> 132:12	<b>hope</b> 78:24 126:6	<b>in-between</b> 19:5	<b>inspection</b> 94:4
<b>grew</b> 30:10 42:19	<b>heads</b> 52:17	<b>host</b> 141:18	<b>in-house</b> 61:18	<b>install</b> 37:22 64:19 65:5 78:15 81:14 84:19 86:25 94:19 138:23 139:13 140:6 166:4 170:20
<b>grocery</b> 18:8	<b>hear</b> 11:15 16:6 173:18	<b>hour</b> 6:12	<b>inception</b> 34:18	<b>installation</b> 28:12, 14 33:13, 58:20 59:5 60:25 87:9 88:11 91:14 97:4 105:18 138:17 139:22 140:5,17 164:5 166:9,15,21, 23 169:12 171:14
<b>ground</b> 43:17,18 122:13 150:15	<b>heard</b> 54:3 62:10 126:4 127:22 135:1 175:16	<b>Hoyer</b> 19:6,7	<b>incident</b> 8:21 35:19,22 36:2 63:8 127:16 134:19 135:4,20 136:4 138:14 160:16,18, 25	<b>installed</b> 28:17,18 31:11 36:8 38:19
<b>groundwork</b> 25:19	<b>hearing</b> 156:18	<b>huge</b> 163:9	<b>include</b> 21:17 164:8	
<b>group</b> 3:13 4:19 12:10 21:16 44:13 84:11,18 141:21 168:9	<b>height</b> 45:18 46:4,9 86:22 87:21 88:18 90:14 133:11 148:10	<b>human</b> 132:19	<b>included</b> 31:9 96:13 135:11 164:7 168:5	
<b>growers</b> 31:8	<b>held</b> 47:1	<b>hundred</b> 9:24 43:18 114:3 162:13	<b>including</b> 18:7 22:8 107:11 133:20 168:21 169:22	
<b>growing</b> 30:10,15	<b>helpful</b> 73:23	<b>hundreds</b> 87:3 92:2 125:15,25 166:10	<b>income</b> 110:2	
<b>guess</b> 9:19 37:3 77:13 166:14	<b>helps</b> 51:7,9	<b>hurdles</b> 122:19		
<b>guy</b> 25:18 29:11 54:6 58:23 96:24	<b>Hey</b> 16:5 61:23 64:17 65:5 112:14	<b>hydrogeologist</b> 53:21		
	<b>higher</b> 123:6 125:21 126:10	<b>hypothetical</b> 120:8 165:13		

43:13 51:21 52:2 64:13 67:14 87:3 88:1 92:6 96:4 97:2, 5 135:19 138:17 140:8,17 148:11 161:4,9	<b>invested</b> 18:5 116:3	175:3	<b>journal</b> 96:2	81:8 102:9 111:11 113:23 132:19 158:20
<b>installer</b> 57:19 108:17 140:9,10,14 148:12,20 149:2 160:21 164:1,3 170:15	<b>investigate</b> 141:6, 13 145:14 158:17	<b>islands</b> 81:15 88:13 114:4 122:10, 14,17 123:18	<b>journalism</b> 134:1	<b>knew</b> 40:25 57:4 58:18 63:3 83:22 96:4 100:9,12 101:5 118:21 134:4 145:22 151:18 153:12 155:20 163:10,12 170:23
<b>installing</b> 63:11 70:3 89:19 137:2 164:7	<b>investigated</b> 37:21 145:16	<b>issue</b> 20:15 45:7,8 46:7,8 76:20 110:5 144:12	<b>journalistic</b> 134:1	
<b>institutions</b> 15:25	<b>investigation</b> 136:25 148:22 151:9,12 154:11 156:4	<b>issues</b> 19:20 41:7 61:19 124:11 172:7	<b>judge</b> 11:23	<b>knowing</b> 63:9 66:18 69:21 86:6,10 115:25 134:22
<b>instructions</b> 120:5	<b>investigative</b> 158:13	<b>Item</b> 150:11	<b>Julian</b> 3:10 8:2	
<b>insurance</b> 129:22 130:13,15,17,21 131:12,15 144:14	<b>investment</b> 19:16, 19 74:3 77:22	<b>items</b> 124:11	<b>jump</b> 132:12	<b>knowingly</b> 64:2
<b>integrity</b> 93:1,24 94:2,6	<b>investors</b> 15:11, 15,22, 19:24 111:20 113:11,20	<b>J</b>	<b>jumping</b> 157:14	<b>knowledge</b> 8:24 30:3 31:18 44:24 46:13 48:7 51:8 56:4 64:8 87:19 97:21 106:16 113:9 135:4,6 152:24 156:21 161:1,19 162:15
<b>intention</b> 12:4	<b>invisible</b> 137:25	<b>J-e-n</b> 37:16	<b>jury</b> 11:14,23	<b>knowledgeable</b> 54:16 139:22 163:20 166:8
<b>interaction</b> 156:13	<b>inviting</b> 148:19	<b>J-e-n-k-s</b> 37:15,16	<b>justify</b> 98:13,14 119:22	<b>Knudtson</b> 7:20 106:10 145:25 146:11 159:14 164:10,22
<b>interest</b> 42:9,13,16 62:19 113:15,18 119:2	<b>invoices</b> 107:8	<b>Jacob</b> 6:18 8:16	<b>K</b>	<b>KOHN</b> 3:8
<b>interested</b> 111:1,3, 21 116:25 138:7 157:10	<b>involve</b> 28:12	<b>James</b> 7:16 50:24 52:6,17,19 81:17 90:2 91:9,17 92:7 94:1 95:8 107:6,15 108:3 128:4 151:13 154:16 162:2,4,19 167:9 168:16 176:8	<b>K-a-s-c-h-a-k</b> 39:9	<b>Kroeger</b> 18:6
<b>interesting</b> 113:20	<b>involved</b> 14:11 18:12 19:16,18 20:12,16 24:3 26:9, 23 27:1 30:5 33:25 34:3,17,19,21,24 36:3 38:1 41:15,22 50:21,22,23 52:9 54:20 55:10,24 57:5 71:6 76:19 80:5 83:14 95:22 102:9 105:18 113:15 123:13 130:18 131:15 132:5 158:6 160:9 162:7 163:10, 13 164:15 167:10, 20 168:1 171:2,7,23 172:9	<b>January</b> 5:6 8:22 32:6 36:2 60:18 62:17 64:8 69:7 85:16 106:15 127:2 128:18 135:1, 139:9,23 155:9,17 160:18 163:6	<b>Karen</b> 6:4 7:7,13 8:20 71:23 143:17	<b>L</b>
<b>interfacing</b> 49:19 87:11	<b>involvement</b> 8:25 23:1 30:13 33:12 40:13 51:11,15,19 58:7 63:3 130:20 163:9 165:3 167:10 171:8	<b>Jenks</b> 37:15	<b>Kaschak</b> 4:23 39:7,8 40:12,24 49:21,22,23 50:14 51:24 52:1,15 59:6 87:13 90:10 91:8 92:7 94:2,5 95:9,21 102:20,22 104:14 105:1,9 107:20 108:1,14 110:19,20 111:4,5,23 112:22 116:15 151:13,23 154:16 162:1,3,19 165:10 167:9 168:15 176:8	<b>L.A.</b> 33:22,24
<b>internally</b> 13:10, 11,16 39:4,5	<b>involving</b> 45:21 63:8	<b>Jim</b> 50:24 51:7 52:6 81:13,17 116:12 144:11	<b>Kennedy</b> 37:12	<b>La</b> 3:13
<b>international</b> 31:24	<b>irrelevant</b> 126:15	<b>Jim's</b> 124:10	<b>Kennedy/jenks</b> 37:9,12 38:21 54:20	<b>Lacks</b> 104:6 135:12
<b>interpret</b> 95:14 108:25 116:9	<b>island</b> 84:20 122:9, 11 136:22 146:4	<b>Joaquin</b> 84:20 136:21 144:9,21 145:4	<b>key</b> 117:3	<b>laid</b> 147:7
<b>interpretation</b> 95:20		<b>job</b> 14:14 18:11 19:9 91:20 133:18	<b>killed</b> 32:6 43:20 59:17 60:6,22,25 61:4 62:17 63:23 64:16 68:15,21,25 87:24 97:9 100:19 102:8 103:14,16,22 104:5 106:15 114:21 117:20 118:3 127:4 132:9 137:13	<b>Lancaster</b> 78:6
<b>intimidate</b> 11:12		<b>John</b> 56:5 128:13	<b>kind</b> 20:8 29:13,20 30:13 31:3 45:18 64:2 69:10 70:6 74:9 75:25 76:2	<b>land</b> 4:10 12:11 13:20,25 14:1 27:13,21 28:4 31:5, 14 35:11 81:15 84:22 85:5 88:16 140:25 145:22 150:20,22 157:15 161:3,13,20 162:7, 16 163:21 167:2,14 175:18,21
<b>introduced</b> 8:19		<b>join</b> 92:21 146:13 164:11 166:20		
<b>invade</b> 106:12		<b>joint</b> 74:14		
<b>invades</b> 154:4		<b>Jose</b> 3:10		
<b>invest</b> 15:11 76:3 111:16				

<b>landowner</b> 170:6	<b>letterhead</b> 84:12	117:10	<b>makes</b> 86:18	105:12 109:20
<b>lands</b> 20:19	<b>letting</b> 72:4 130:12	<b>locations</b> 20:23	137:24 146:17	116:19 121:15
<b>language</b> 23:23	<b>level</b> 43:25 94:3,4	35:6 66:20	150:4	126:19 128:21,23
85:1 104:20	101:25 117:4	<b>log</b> 96:2	<b>making</b> 9:11 25:9	129:11 131:19
<b>large</b> 12:11 13:22	122:15 156:9,17	<b>long</b> 12:17 17:11	72:17 80:23 88:20	137:16 149:12
31:23 71:1	162:20 165:17	39:23 42:21 152:18	93:2 165:11	<b>market</b> 109:6
<b>late</b> 44:10,12	167:10 176:9	<b>long-term</b> 82:12	<b>malfunctioning</b>	<b>marks</b> 108:14
<b>Laura</b> 5:5 129:20	<b>license</b> 6:15 42:17	<b>longer</b> 22:14 80:11	94:9 102:3 117:2,21	<b>mass</b> 141:17 142:5,
171:19	61:6,9 62:11 87:8	119:21	118:5,22 119:13	7,12
<b>law</b> 3:4,9 61:24	106:3,9,17	<b>looked</b> 145:13	120:25	<b>Master</b> 4:19
<b>lawyer</b> 61:16,18	<b>licensed</b> 53:6	147:4 162:21	<b>manage</b> 34:6 74:22	105:14,16
111:11 153:8,19,21,	<b>life</b> 9:20 12:1	<b>loop</b> 6:13 48:1	130:6 141:2 169:21	<b>material</b> 105:7
25 154:3	<b>light</b> 67:24 69:3,19	<b>Los</b> 3:14 12:16 18:2	<b>managed</b> 27:24	<b>materials</b> 36:15
<b>lawyers</b> 11:10	96:21 133:12	<b>lot</b> 19:15 20:6 31:25	73:21 146:5	85:14,17 101:9
131:9 145:3 153:8	134:14,20,21	113:14,15,18	<b>management</b>	158:20
<b>lay</b> 13:19 156:5,8	136:19,23 144:9,10,	133:19,20	20:21 22:4 47:1	<b>matter</b> 7:7 85:23
<b>LDS</b> 13:7	12,21	<b>lots</b> 99:14	49:15 73:9,24 74:1	143:17
<b>leaned</b> 87:4	<b>lightning</b> 87:25	<b>low</b> 43:8,25 44:14	75:4 110:7,13	<b>maximize</b> 94:20
<b>leaning</b> 82:22	88:6 92:13,18	145:7	<b>manager</b> 34:5	<b>meaning</b> 19:24
87:14	<b>lights</b> 29:13,14	<b>lower</b> 90:18	56:25 58:3 93:15	33:13 66:9 67:7
<b>learned</b> 35:25	64:20 145:8 150:18	<b>Lucero</b> 7:14	144:16 166:14,19	98:12 110:6 122:15
139:5	171:20		171:8	136:11 144:7
<b>lease</b> 146:3,6	<b>likable</b> 41:2	<b>M</b>	<b>managerial</b> 14:25	145:23 170:15
155:14 156:2	<b>likes</b> 142:12		<b>managers</b> 20:14	171:18
<b>leased</b> 155:4	<b>limited</b> 149:5	<b>made</b> 19:9 92:25	<b>manages</b> 70:16	<b>meantime</b> 81:13
<b>leases</b> 31:9	<b>lines</b> 68:13 96:24	94:15 95:4 103:17,	<b>managing</b> 12:9,17	110:11
<b>leasing</b> 155:10,25	<b>list</b> 112:5	21 104:3,4 110:8	20:11 21:17 22:8	<b>measure</b> 11:25
<b>leave</b> 152:18	<b>listen</b> 64:17 65:5	113:20 115:8	28:2 30:17 34:4	84:24 95:1,10,12
<b>leaving</b> 148:20	<b>literature</b> 24:25	118:18 119:4	38:2 70:19 71:6	<b>measures</b> 86:9
<b>led</b> 55:9 75:16	<b>litigation</b> 160:9	120:17 125:7	73:2	<b>measuring</b> 54:24
<b>left</b> 17:4 18:18	<b>LLC</b> 12:21,24 22:23	135:10 139:17	<b>manufactured</b>	<b>meet</b> 47:9 57:3
49:12,13 134:10	122:8	141:5 145:1 155:13,	32:7 67:6 87:1	112:7
<b>legal</b> 61:11,19 62:9	<b>Lloys</b> 39:7,10	24 174:3	<b>manufacturer</b>	<b>meeting</b> 72:24
74:15 89:14 123:24	46:20 79:23 81:7,8	<b>magic</b> 119:20	67:18 85:12 86:18	149:1
<b>legally</b> 154:1	108:4 110:18 112:3,	<b>maintain</b> 28:4	92:17 148:11,20	<b>meets</b> 78:25 90:19
<b>legislation</b> 171:24,	9 116:12,21 117:18	<b>MAJESKI</b> 3:8	149:2 160:8,20	<b>megawatt</b> 114:3
25 172:1,6,10	118:4 119:8 120:11	<b>make</b> 11:12,21	162:6	<b>megawatts</b> 77:25
<b>legislature</b> 172:8	<b>Lloys'</b> 80:12	56:24 66:25 69:18	<b>manufactures</b>	<b>member</b> 19:1,5
<b>lessee</b> 56:1	<b>local</b> 73:13,14,21	77:10 82:12 86:7	67:10	<b>memo</b> 37:8 97:17
<b>letter</b> 4:12,16 37:8,	<b>located</b> 7:4,5 88:14	87:16 89:11 91:20,	<b>March</b> 4:16 19:12	112:3
11,17,20 38:10 72:6	<b>location</b> 15:20	24 95:6 99:1,3,18	83:6 94:19 106:23	<b>memory</b> 108:17
80:12 83:6	28:10 31:11 33:18	103:4 107:21	107:5 108:13	<b>memos</b> 100:4
	35:16 45:12 59:20	108:22 112:14	<b>marginal</b> 122:11,	<b>mentioned</b> 31:17
	60:2,5 66:12 67:15	114:23 116:13	15,16 123:18	81:16 161:2 166:1,
	78:16 88:9 94:23	118:18 121:8	<b>mark</b> 79:18 150:17	173:5,25
		138:10,22	<b>marked</b> 21:3, 25:4,	
			5 72:1,3 76:8 79:7,9	
			83:2,4 104:16,17	



<b>mentioning</b> 88:3	<b>mindful</b> 45:14 69:5 92:17 155:18	<b>MW</b> 77:24	162:16,22 165:10 168:12,15 176:2	<b>offering</b> 73:8
<b>met</b> 18:22 19:9 28:12,14,24 29:1,5, 7,16 31:11,13 32:7 33:13 34:25 35:2, 16,25 36:4,6,7 37:10 38:8,18 43:13 46:2 51:21 52:2,13, 20,24 55:12,15 56:9,16,18 57:19, 20,21 58:19 60:25 61:3,10 62:12,20 63:10,11 64:5,7,10, 13,18,22 65:5 67:20 69:23 72:24 78:15 80:23 81:2,9,14,16 82:11,19 83:20 84:19 85:9,18 94:6, 9 96:14 102:23 119:21 130:1,10,11 134:8, 135:18 138:13,19,23 139:13,23 140:7 141:11 144:8,12 153:20 155:3,18,24 156:16,20 160:8,21, 23,24 161:4,8, 163:13 164:17 166:4,8,9, 167:24 170:21 171:14 175:21	<b>mindset</b> 157:11	<hr/> <b>N</b> <hr/>	<b>NRG-</b> <b>MANUFACTURED</b> 161:14	<b>office</b> 12:16 15:3
<b>meteorologic</b> 97:10	<b>minute</b> 68:10	<b>named</b> 19:6	<b>NRGS</b> 31:19	<b>one-page</b> 104:22
<b>meteorological</b> 82:11 84:15,19	<b>minutes</b> 46:17 151:4	<b>narrow</b> 108:19 137:23	<b>NTSB</b> 5:9 137:18, 22 138:1,11	<b>one-year</b> 98:25 114:2 119:12 152:23
<b>meters</b> 65:9 92:10 122:13	<b>misread</b> 107:24	<b>national</b> 17:21 44:24	<b>nuclear</b> 31:25	<b>ongoing</b> 23:3 118:18 145:23
<b>methodology</b> 99:17	<b>missing</b> 107:13 165:22	<b>nationally</b> 18:14	<b>number</b> 9:10 62:22 91:17 131:21 133:19 142:8 170:23	<b>Online</b> 122:7
<b>Michael</b> 39:7 49:21	<b>misspelled</b> 148:9	<b>natural</b> 57:2	<b>numbers</b> 107:1	<b>Onyx</b> 14:3 24:21 25:12 27:6,9,12 31:8, 32:10,22,23 35:6 51:16,17 55:7 78:4,6 160:22
<b>middle</b> 22:2 70:14	<b>Misstates</b> 140:3,19 141:7	<b>nature</b> 10:8 19:20 25:8 29:22 36:1 37:20 44:2 61:25 64:21 87:22 97:17 122:16 123:13	<b>numerous</b> 92:4,5	<b>open</b> 148:21
<b>Mike</b> 39:7 51:25 110:19 116:21 117:18 118:4 119:8 120:11	<b>model</b> 16:14 41:9	<b>necessarily</b> 123:10 154:2	<hr/> <b>O</b> <hr/>	<b>operate</b> 12:15 23:4 50:22 65:19
<b>millions</b> 125:15,20 126:1	<b>models</b> 54:24	<b>needed</b> 20:12 57:13 73:21 162:20 164:17	<b>Oakland</b> 3:5	<b>operating</b> 14:18 20:13
<b>mind</b> 26:13 36:16 41:21 62:7 64:8,9 77:13 85:4 132:11 139:12,21 151:18	<b>moment</b> 146:15	<b>needlessly</b> 148:20	<b>oath</b> 11:18	<b>operation</b> 50:12 51:2 93:7 118:14
	<b>money</b> 20:16 70:4 82:13 110:8 111:21	<b>newspaper</b> 134:19	<b>object</b> 9:7 10:19 115:13 130:2,23 135:12 139:2 164:19 165:13 166:17 167:4 175:25	<b>operations</b> 12:14 20:4 50:8 69:14 84:2 102:14 119:9
	<b>Monica</b> 6:13 7:5,6	<b>nodding</b> 9:11	<b>objecting</b> 73:13	<b>opinion</b> 66:1,3 126:2,16 166:6
	<b>monitor</b> 102:16 104:12 164:1,3 172:2,6	<b>nominee</b> 19:4	<b>Objection</b> 61:11 63:13 65:16 67:2 69:24 89:13 92:20 102:4 104:6 126:15 140:19 141:7 167:22	<b>opportunity</b> 73:22 141:9 161:5
	<b>monitoring</b> 107:10 164:6	<b>normal</b> 26:18	<b>objections</b> 9:6	<b>opposed</b> 171:13
	<b>month</b> 136:4 144:13	<b>Northern</b> 42:23 50:11	<b>obligated</b> 153:10	<b>opposition</b> 73:21
	<b>months</b> 80:24 97:8 99:10 114:2 117:20 118:3 119:12	<b>notes</b> 95:25 142:2	<b>obligation</b> 153:13	<b>option</b> 65:13 69:9 76:17 77:7 147:13, 15
	<b>Moran</b> 147:22	<b>notice</b> 4:8 21:2 31:17 127:7	<b>obtaining</b> 15:15	<b>options</b> 147:2,7,9
	<b>Moran's</b> 72:3	<b>noticed</b> 7:9 159:3	<b>occasion</b> 25:22	<b>orange</b> 29:11 64:20 67:19 68:13,19 135:6
	<b>morning</b> 7:3,22 112:5 128:19	<b>notified</b> 156:19	<b>occupation</b> 12:8	<b>order</b> 54:25 73:12, 14 94:20 113:24 122:6 141:13 152:11 173:1
	<b>mountain</b> 29:19	<b>notify</b> 118:13	<b>occurred</b> 174:22	<b>original</b> 77:16
	<b>move</b> 32:10 103:5	<b>notion</b> 113:8	<b>October</b> 116:22 117:19 118:8,17 119:7 120:16	<b>originally</b> 54:19
	<b>moved</b> 19:11 150:24 157:12 170:4	<b>November</b> 72:12 113:5	<b>offer</b> 19:9	<b>outreach</b> 112:17
	<b>MSC12-00880</b> 6:6	<b>NREL</b> 122:7,11,14		
	<b>multiple</b> 116:3	<b>NRG</b> 7:7,23 27:19 31:17,22,23 32:3,7 67:6,10,18,25 68:4, 9 71:23 85:12 86:3 87:1 143:17 160:8, 15,16,24 161:19		
	<b>mute</b> 16:8			

**Overbroad** 63:14  
101:12 164:10,22  
**oversee** 51:8,9  
**oversees** 49:1  
**overview** 85:2  
**owned** 31:5 84:21  
**owner** 28:17 32:15  
48:24 56:5 115:15  
123:24 124:2  
125:18,19 130:4,5  
140:22 146:6  
155:12 157:7,15  
170:6  
**owners** 14:17  
124:15  
**ownership** 13:11,  
12 17:14 47:6  
**owns** 54:13 70:16  

---

**P**

---

**p.m.** 110:20 176:16  
**pages** 36:18  
**paid** 74:9 123:11  
**paint** 133:12  
150:11  
**painted** 64:20  
67:11 68:22 134:25  
135:2  
**painting** 67:7  
135:5  
**paper** 90:3  
**paper's** 134:10  
**paragraph** 22:1,2  
70:15 78:24 80:18  
81:12 84:17 85:8  
104:20 114:8 115:2,  
25 121:24 123:17  
148:8  
**paraphrasing**  
114:7 154:19  
**parcels** 20:19  
**Pardo** 3:10 8:2  
**parenthesis**  
150:16

**part** 15:14 23:3  
26:19 56:13 71:10  
84:16 96:13 107:8  
109:18 113:21  
121:8 135:10  
153:13 166:22  
**participant** 174:14  
**participate** 74:12  
162:16  
**participated**  
161:24 176:9  
**participates** 22:3  
**participating**  
171:9  
**participation**  
161:23  
**parties** 7:12 92:2  
**partner** 12:9,17  
13:12 46:7 69:8  
72:7 84:21 99:18  
103:4 116:2,6,10  
129:25 130:2  
**partnered** 33:10  
**partners** 8:1 17:3  
47:2 120:22  
**parts** 83:1 169:21  
**party** 18:14,15,18,  
19,23 19:3,4 51:8  
121:6 174:21  
**past** 14:11 30:22  
152:23 163:20  
**pause** 16:11  
142:22 159:19  
**pay** 121:6  
**payroll** 20:11  
**PDC** 7:21 106:17  
**pen** 90:2  
**penned** 90:25  
**people** 9:24 11:22  
21:11 22:17 39:6  
41:17 44:13 66:21  
104:11 111:20  
113:10 118:3,21  
126:2 130:5 142:8,  
10,16 154:14  
170:18

**percent** 9:25  
150:14 162:13  
**percentage** 74:13  
150:18  
**perform** 173:6  
**period** 94:13  
150:20  
**permit** 83:10,17,24,  
25 84:5 96:7, 144:9,  
22 145:4 148:13  
149:25 150:16,17,  
20,22,23 152:1,7,11  
153:6,10,16 161:3,  
14,17 162:7,16  
167:2,14,17 175:18,  
21 176:9  
**permits** 36:11  
73:13  
**permitting** 73:14  
74:7 81:14,18 83:15  
98:18 115:2,10,21,  
23 116:13 149:25  
151:21  
**person** 39:2 54:19  
55:15 59:1,4 62:15  
69:13 81:17 82:10  
83:9 95:19 119:8  
133:24 139:22  
162:3  
**person's** 132:18  
**personal** 43:3  
46:12 48:16 55:18  
64:8 90:21 95:25  
106:16  
**personally** 6:15  
29:3 30:4 47:9  
48:14 82:5 87:19  
130:22 138:18  
153:23 154:11  
158:12 169:13,14  
171:2 174:19  
**perspective** 25:7  
39:1 41:5 47:16  
61:8 66:16,24  
113:17 138:16  
**pertains** 123:25  
**pesticides** 44:1,14  
**Peter** 4:13 46:21  
49:20

**phone** 16:9 55:13,  
16 57:8,23 102:22  
119:8 128:1 130:11  
**phrase** 142:5,12  
**phrased** 154:22  
**physical** 174:16  
**pick** 55:13 57:8  
102:22  
**picked** 119:8  
**piece** 73:7 75:1  
155:4  
**pilot** 42:1,8 43:5  
53:3,6 134:8  
**pilot's** 42:17  
**pilots** 43:1 69:22  
**Pine** 32:16,17,18,  
20,23 33:7,15 34:11  
35:2 76:18 77:17  
82:21  
**pistachios** 30:21  
**place** 8:21 36:2  
45:13 60:3 82:7  
94:21 108:7 143:22  
**Plaintiff(s)** 6:5  
**plaintiffs** 7:9  
**plan** 17:5  
**plane** 44:17,18  
**planes** 42:9 43:25  
44:14  
**planning** 19:17  
36:11 161:21  
**plans** 109:6,15  
**planting** 29:21  
30:7  
**plate** 14:25  
**play** 11:7,9,14  
147:15  
**played** 100:13  
**point** 24:3 38:13  
39:2 40:7 47:3  
48:17 60:6 75:5  
77:6 88:3 94:8  
95:24 96:5 103:8  
114:12,23 115:25

118:16 120:23  
145:12 153:18,23  
156:4 157:6 158:1  
168:3  
**political** 19:15 74:2  
**politics** 19:15  
**portfolio** 13:24  
31:25 32:1  
**portion** 27:13  
35:10,12  
**portions** 162:12  
**position** 17:4 57:9  
152:17  
**positive** 10:12  
**potential** 23:11  
25:19 28:9 54:24  
64:7,9,10 65:6  
66:13,21 69:22  
75:24 84:23 85:25  
102:17 121:24  
122:7,19 123:5,7  
125:11 141:6,9,12  
157:5  
**potentially** 11:7  
15:21 25:10 34:8  
59:13 125:20  
132:18  
**power** 33:23,25  
41:11 122:12,20  
123:18,23  
**practice** 13:14,15,  
25 32:1 123:2  
**predictive** 116:23  
**premise** 66:7  
**preparation**  
117:14 122:2  
129:14 133:7  
149:18  
**prepares** 14:1  
**present** 3:6 64:2  
85:19  
**presented** 64:7  
**presently** 26:7,8  
27:7 39:15 138:25  
139:1  
**President** 17:20  
19:8

<b>presidential</b> 19:2, 3	<b>producing</b> 33:17 102:24 104:13	14	<b>provide</b> 41:11 110:12 122:21 154:14 161:20 164:16	<b>qualify</b> 9:25 10:3
<b>press</b> 134:3 144:6	<b>production</b> 4:9 72:5 76:13 105:5 121:24 122:6 129:13 131:23	<b>project's</b> 103:9 114:15	<b>provided</b> 77:7 138:3 148:11 175:18,20	<b>Quality</b> 73:16
<b>presumption</b> 156:1	<b>professional</b> 138:22	<b>projects</b> 12:12,13 13:22 14:2 15:12 20:13 23:21 24:13 26:5,7,9 27:7 28:18 32:11,22 39:17 41:5,10 51:5 54:25 76:2,4 89:19 99:20 107:16 172:15	<b>providing</b> 11:1 94:9,13 102:8 110:13	<b>quarter</b> 107:19 116:23
<b>pretty</b> 70:23 84:2 89:18 129:9	<b>profits</b> 74:18	<b>Prometheus</b> 32:14	<b>public</b> 133:20	<b>quarterly</b> 107:8 108:18,20 116:21
<b>previous</b> 28:17 81:3 113:24	<b>progression</b> 34:17	<b>promising</b> 109:5	<b>pulled</b> 36:19	<b>question</b> 10:6,10, 17,22 12:3 18:23 40:5 61:14 63:15 65:4 66:7 67:4 70:8 76:11 101:15 111:12 114:17 115:7,17 131:10 134:13,14 136:4,9, 10 137:6 138:20 140:11,16 145:21 152:22 153:5 154:3 164:12 169:18 170:3,11 175:9 176:1
<b>previously</b> 72:2 79:8 83:4 122:19	<b>project</b> 14:19,22 15:19,21,22 20:14, 15,19 23:15 26:24 27:11,12,24 28:3 32:15 34:2,5,9,16 36:6 37:1 39:3,13, 17 40:18,19,21 46:24 47:14 49:1 50:10 51:20,21 52:4,9,14,21,25 53:23 55:5 56:2,21, 25 57:6 58:8 59:21 71:5 72:11 73:1,3 74:11,12 76:1,19 77:9,17,20 78:2,3,5, 9,11,13,14,22 80:19 81:5,9 82:24 84:16, 25 85:2,13 93:16,20 94:1,23 96:1 98:13 99:12,18,23 100:18 101:11,13,20 102:10,17 103:3,10, 18 104:19 107:17 109:22,25 112:15 113:18 114:3,9,14, 25 115:3,9,21 116:1,2,16,21 117:8,10 120:18,22, 25 122:14,17,18,20 123:5,9,13 124:3, 11,16,18,19,20 125:12,16,21,23,25 126:14 129:25 130:4,6 132:13 133:23,24 141:1,4, 6,10,12 145:19 156:24 157:7,9,16, 21 163:6,13,25 164:2,4,16 165:23 166:14,19,22 167:21,25 168:12 170:2,4,5 171:8,13, 15 172:10,13,19,22 173:2,4,8 174:6,8,	<b>pronunciation</b> 110:22,23	<b>purchase</b> 14:1 31:4	<b>questions</b> 8:23 9:4,6 10:19 11:25 133:10,13 135:23 151:2 159:12,14,15 160:12 162:9 165:1 169:7 173:13
<b>prices</b> 117:11		<b>properly</b> 37:21	<b>purchased</b> 17:1 30:22,24 31:8	<b>quick</b> 143:4
<b>primarily</b> 12:12 15:25 18:5,8 31:24 32:14 55:3 113:2		<b>properties</b> 8:1 24:3 50:4 72:23 82:6 84:21 111:2,17 116:11 129:24 146:10 155:11 160:22 171:24	<b>purchases</b> 20:19	<b>quickly</b> 78:14
<b>primary</b> 81:21		<b>property</b> 4:25 15:10 20:24 23:10 25:9,12,13,19 28:7, 22 29:3 33:25 35:3 38:2 43:13 47:18,24 49:3 51:16 52:10 56:2 59:16,21 72:17 73:7 74:19,23 77:8 80:14 101:24 110:7 116:3 122:21 124:1, 155:2,4,13,19,24 156:2,6 169:22 170:2	<b>purpose</b> 70:17 145:15,16	<b>quote</b> 128:5 137:23,25 150:17
<b>principal</b> 17:5 49:18 51:2			<b>purposes</b> 83:7	<b>quote/unquote</b> 98:10
<b>principally</b> 17:9 52:7			<b>pursuant</b> 11:4	
<b>prior</b> 31:4 150:21 160:15,17,18,25 163:6			<b>pursue</b> 94:23 114:16,24 120:19	
<b>private</b> 17:22			<b>put</b> 9:9 15:19,21 61:10 62:11 63:22 65:24 69:9 82:13,19 89:20 90:2 92:8,13 95:9 115:10 133:12 135:11 139:4 141:11 153:8 173:3	
<b>privilege</b> 106:12 154:4			<b>puts</b> 13:25	
<b>proactive</b> 172:11			<b>Putten</b> 4:4 7:22,23 92:20 106:25 159:15,17 160:4,6,7 164:14,21,25 165:7, 166:21 167:7,24 168:25 175:9,10,12, 14 176:2,5,11	
<b>problem</b> 69:20 131:3		<b>proposal</b> 72:10,11, 13 73:1,6 78:25 79:1 135:10	<b>putting</b> 52:24 65:14 69:18 70:7,9 74:2 83:20,22 86:5, 9 88:4 98:17 111:21 155:14	
<b>problems</b> 16:8		<b>propose</b> 77:11		
<b>proceed</b> 170:12,15		<b>proposed</b> 147:23		
<b>proceedings</b> 16:11 142:22 159:19		<b>proposing</b> 84:19		
<b>process</b> 9:3 11:11 16:17 20:16 51:22 52:2,13 63:11 73:14,20,22 74:7 81:18,23 82:7,20 83:8,11,15 87:5 98:18 115:21 130:12 176:10		<b>Prospect</b> 4:11		
<b>produced</b> 105:2,4 129:1		<b>prospecting</b> 20:23 33:13 51:15 52:3 82:2 111:20 113:11 157:5	<b>qualified</b> 166:3	
<b>producer</b> 110:2		<b>prospectors</b> 66:13		
		<b>prospects</b> 66:20		

122:6,25 127:1 131:24 137:19 138:1 146:7	<b>received</b> 81:4 113:17 123:24	<b>recording</b> 134:9	<b>relations</b> 133:20	<b>repayment</b> 74:11
<b>reading</b> 81:3,6 107:23 109:16 123:6	<b>receiving</b> 74:11 104:9	<b>red</b> 29:8 67:11,24 68:22	<b>relationship</b> 38:1 47:6 48:25 74:9 158:3	<b>repetitive</b> 128:25
<b>readings</b> 119:21	<b>recipient</b> 37:6	<b>redacted</b> 159:3,5	<b>relative</b> 23:8 27:3 28:5 45:11 46:9,14 52:24 76:18 81:4 82:12 101:19 137:8 144:17 155:12 157:2,9 172:1	<b>rephase</b> 140:23
<b>ready</b> 34:19 147:5	<b>recognize</b> 35:19 87:15	<b>redundant</b> 117:4 176:6	<b>relevant</b> 139:2	<b>rephrase</b> 61:14 154:5,6,10 170:9
<b>real</b> 4:25 8:1 143:3	<b>recognizing</b> 54:23	<b>reevaluated</b> 37:24	<b>rely</b> 165:5	<b>replace</b> 119:4
<b>realize</b> 116:3	<b>recollect</b> 153:15	<b>reference</b> 45:10 150:5 172:4	<b>relying</b> 137:4 151:23	<b>replaced</b> 38:21,24 117:6 118:9
<b>reason</b> 10:6 11:16 66:9,12,19 96:16 99:22 141:11	<b>recollection</b> 9:23 10:2 26:19 44:6 53:2 56:23 58:14, 16,18 61:2 75:11 78:20 87:2,13 97:24 101:4 102:6 103:15 104:2 109:9 111:13 112:11 118:17 120:10 123:1,5 125:1 127:24 130:8 136:24 142:11,17 148:6 157:12 163:8, 18 166:10,25 175:20	<b>references</b> 144:4	<b>remain</b> 114:9	<b>report</b> 5:9 73:17 94:12 98:5 102:23 108:18,20 122:23 137:18,22 138:1,11
<b>reasons</b> 101:3	<b>recollections</b> 100:3	<b>referencing</b> 116:10	<b>remaining</b> 122:14	<b>reported</b> 120:16
<b>recall</b> 29:10,12,15 40:11,15,21 43:19 44:6 45:9 46:11,16 47:25 48:16 49:4 51:23 52:11 57:24 58:4 61:5 64:25 65:1 68:20 69:11 75:10 77:15 78:19 80:7 83:13,23,24 84:7 85:3,15 87:10 88:19 92:11 93:4 94:3,17 95:7 96:8, 12,15 97:3,14,15, 18,20 98:7,11,22 99:13 100:1,2 102:11,23,25 103:8, 11 105:21 106:1 109:17 110:23 111:18 112:17 113:22 114:12 115:1 117:13 119:6 120:3 121:11 122:25 124:9,12,21 128:2 130:19 131:13 133:5 134:17,22 136:20 138:12 142:1,4 146:14 148:1,7 151:3,16,17 152:16 153:11 155:1,7 157:11,14 160:25 161:10,12 162:23 167:15 168:3,10 170:25 171:12,18 172:9 173:7, 174:12,18,20	<b>recommend</b> 86:16 170:20	<b>referred</b> 32:3 75:13 81:5 144:2	<b>remember</b> 10:1,9 38:24 49:5,7 76:21 77:6 80:5 81:11 96:9 103:12 111:5, 8,10,15 112:1,9,16 116:15 120:11 124:8 125:5,8 133:4,5 141:25 147:9,11,24 148:14, 15,25 149:3,4,15 151:1 168:5 175:19	<b>reporter</b> 6:15 7:9 8:7 9:5 17:24 27:15 30:24 31:6 32:17,19 53:16 133:3,6,9,13 134:7 136:11 149:8
<b>recalling</b> 171:9	<b>recommendation</b> 58:14,22 86:7 136:16,25 137:1,5, 11 149:7,9	<b>referring</b> 26:11 31:22,23 32:2 54:14 89:22 113:13,22 116:6 135:15 164:25	<b>REMEMBERED</b> 6:11	<b>reporter's</b> 9:17
	<b>recommendations</b> 86:19 125:7 137:2 147:12 163:23 164:16	<b>refers</b> 129:16	<b>reminds</b> 78:7	<b>reporters</b> 133:5 144:6
	<b>recommended</b> 86:10 89:17 148:12 163:15,16,19 166:5 171:2	<b>reflect</b> 50:7	<b>removal</b> 153:17	<b>Reporting</b> 7:10
	<b>recommending</b> 117:21 118:23	<b>reflectivity</b> 150:13	<b>renew</b> 152:10	<b>represent</b> 7:12,13, 23 146:20 160:7,8 169:6 173:25
	<b>record</b> 7:1 8:15 9:10,16,17 71:16,20 72:2 83:4 89:18 92:5 126:24 143:10, 14 159:21,23,24 160:2 175:10 176:15	<b>refresh</b> 101:4 109:9 111:12 112:11 125:1	<b>renewable</b> 3:13 4:19 6:8 12:9 13:14, 18 15:10 21:16 23:18 32:1 70:18 75:12 83:18 84:11, 18 105:14 113:8 141:2 168:9,14,19, 20	<b>representation</b> 90:24 95:4 146:17, 19
	<b>recorded</b> 101:9,18	<b>refreshes</b> 148:6	<b>renewables</b> 13:24 113:16	<b>representations</b> 11:22
		<b>regard</b> 82:23 86:11 110:9 130:25 140:21	<b>renewal</b> 150:2 152:3,6	<b>representative</b> 11:6 72:22
		<b>regime</b> 116:24	<b>rep</b> 147:21	<b>represented</b> 117:24
		<b>region</b> 59:19,20	<b>repair</b> 144:14,16	<b>representing</b> 89:8
		<b>regulation</b> 92:14		<b>request</b> 150:23
		<b>regulations</b> 46:3, 13 64:6 87:20 90:19		<b>required</b> 145:4
		<b>relate</b> 46:12 156:15		<b>requirement</b> 45:18 144:10 145:7
		<b>related</b> 32:22 36:23 37:9 75:20 97:15 102:25 124:11 133:21 160:12 162:9 165:5 171:7, 23 172:8,10,19		<b>requirements</b> 88:25
		<b>relates</b> 39:2 73:3		<b>requires</b> 73:16

163:20	<b>review</b> 73:17 75:21 125:1 133:7 149:18 150:19 161:5,8	34:14,16 36:3,10 37:2 38:21 39:2,23 40:13 46:2 47:17 48:4 49:19 51:2 57:5 58:7,12 61:6 62:11 63:1,21 64:13 66:9,14 70:13,14 78:12 82:1 83:4 84:8,19 88:23 89:8, 11,24 90:11,17,25 93:12,18,21,23 96:17,20 100:21 103:4 104:12,16 105:13 106:8 107:2 109:14 115:8,20 116:2,22 118:4,21 119:1,9 120:5 121:17 126:24 129:13 133:14 137:8,17 138:13,21 139:22 140:8,17 141:5 146:8,17 153:10,13 165:24 167:1 169:21 170:19 173:1	87:21 138:16 164:17	<b>serve</b> 39:19
<b>resources</b> 3:13 4:11,19 6:8 12:9 15:10 21:16 51:1 83:18 84:11,18 105:15 110:12 122:8,17 168:9,14, 20	<b>reviewed</b> 10:7 36:15,18 76:25 129:14 161:12,16		<b>sale</b> 74:10	<b>Service</b> 130:14
<b>respect</b> 89:17	<b>reviewing</b> 45:16 101:8 151:3 153:15 161:10 162:21		<b>San</b> 3:9,10 84:20 136:21 144:9,21 145:4	<b>Services</b> 7:15
<b>respond</b> 11:25 135:23 136:11,16 149:8	<b>Rich</b> 4:17 48:20 54:7,9,13 55:4,6,14 58:15 75:21,22 78:21 108:19		<b>Santa</b> 6:13 7:5,6	<b>serving</b> 93:18
<b>responded</b> 151:4	<b>Richard</b> 54:3,5 117:19		<b>satisfaction</b> 73:17	<b>set</b> 71:15 73:18 85:2 90:18 101:8 158:6
<b>responding</b> 9:4 88:25 108:5 109:14	<b>Rick</b> 5:4 48:20		<b>scale</b> 13:21	<b>seven-foot</b> 92:12, 18
<b>responds</b> 108:3	<b>risk</b> 63:23 64:9,10 65:22 70:7,9 85:18, 25 86:4		<b>scope</b> 84:3	<b>Shah</b> 7:20 60:13,18 106:17
<b>response</b> 9:25 10:6 128:3 136:7,9 147:24 150:3 152:24	<b>risks</b> 64:7		<b>seamless</b> 13:10,16	<b>share</b> 70:14 74:18
<b>responsibilities</b> 21:17 22:8 157:25	<b>road</b> 20:17 69:1		<b>sec</b> 119:14	<b>sheet</b> 162:22
<b>responsibility</b> 15:14 49:15 70:19 87:16 93:13	<b>robust</b> 32:1	<b>RRG'S</b> 51:11 58:7 110:6	<b>secret</b> 66:10	<b>Sherree</b> 6:14 7:10 9:12 76:10
<b>responsible</b> 50:8 69:13 87:11 119:9 130:21 131:12	<b>rock</b> 29:19	<b>RRG-155</b> 79:9	<b>secretary</b> 22:20 134:3	<b>shop</b> 51:9
<b>responsive</b> 9:13	<b>rod</b> 87:25 88:6 92:13,18	<b>RRG-1956</b> 4:22 112:21	<b>sector</b> 18:8	<b>Shorthand</b> 6:15
<b>restart</b> 73:22	<b>Roger</b> 7:13 8:19 106:25 161:2	<b>RRG-2057</b> 5:8	<b>seed</b> 156:6,8	<b>shortly</b> 40:18 56:19
<b>restate</b> 10:21 47:20	<b>role</b> 22:11 39:19 50:3 81:20,21 100:13 113:1 118:12 119:1 129:22 141:2 158:4 163:6,25	<b>rules</b> 11:10 46:3,13	<b>seeds</b> 44:1,14	<b>show</b> 21:1,2 71:25 76:7 104:15 105:11 106:19 116:18 124:23
<b>restriction</b> 86:22 148:10	<b>roles</b> 107:15	<b>run</b> 12:14 36:25	<b>seek</b> 169:25	<b>showing</b> 117:17
<b>restrictions</b> 66:5 87:21	<b>roll</b> 18:6	<b>running</b> 30:5,6 107:22	<b>seeking</b> 15:15	<b>shown</b> 85:23 86:2
<b>result</b> 35:24 45:21 100:23	<b>Ronk</b> 3:17,19 7:3,4	<hr/> <b>S</b> <hr/>	<b>select</b> 105:24	<b>shows</b> 9:16
<b>retail</b> 18:5	<b>room</b> 10:25	<b>S-corp</b> 12:23	<b>selected</b> 19:5	<b>side</b> 68:10
<b>retained</b> 35:13	<b>ROPERS</b> 3:8	<b>S-i-m-o-n-s</b> 54:10	<b>selecting</b> 170:2	<b>siding</b> 37:9
<b>retainer</b> 74:10	<b>Royal</b> 7:10	<b>S-w-i-l-l-e-r</b> 8:16	<b>sell</b> 27:22 110:3	<b>Sierras</b> 24:20
<b>retention</b> 72:9 105:19	<b>RPS</b> 75:12	<b>Sachs</b> 77:23	<b>selling</b> 92:18 121:4	<b>sighting</b> 38:7
<b>return</b> 122:21	<b>RRG</b> 7:16,19 8:25 12:10,14,18,21,23 13:7,14 15:4 16:20 17:17 19:23 20:3 23:10,20 24:14 25:9 26:11 28:2,6 33:12	<b>Sacramento</b> 3:18 7:4 84:20	<b>sells</b> 67:18,25	<b>sign</b> 20:11 83:10
<b>reveal</b> 95:20		<b>safe</b> 138:18,23 139:13,22	<b>send</b> 144:14,16	<b>signature</b> 105:22
		<b>safer</b> 69:18	<b>sending</b> 37:7 127:8 129:6	<b>signed</b> 83:6 89:3 157:20
		<b>safety</b> 46:4,9 65:24 66:7,24 86:9,23	<b>sense</b> 56:24 77:10 108:21 113:13,14 156:12	<b>significant</b> 71:2 125:10
			<b>sensor</b> 117:4	<b>significantly</b> 116:24
			<b>sensors</b> 117:3,6 118:9,22 119:4,13 120:25	<b>similar</b> 19:23 39:19
			<b>sentence</b> 80:17 91:1 92:24 114:7 123:22 148:18 151:6,23 159:5	<b>Simon</b> 54:7,9,13 58:15,18 59:1,12 75:21,22 78:21 79:23 80:14 81:24 82:25 87:2 89:22
			<b>September</b> 76:15	

95:15, 108:19,24 109:3,11,14,17 110:18 116:20 117:19 123:8 163:15,16,20 166:6	<b>sort</b> 9:4,15 13:10 14:23 15:3 29:18,19 64:1 74:3 82:18 90:14 147:16 174:13	<b>speculating</b> 22:25 81:5 91:4 97:20 116:7	<b>state's</b> 75:12	<b>storing</b> 17:6,7
<b>Simon's</b> 123:7	<b>sorts</b> 25:1 45:10 64:18 76:4	<b>speculation</b> 65:16 66:4 67:3 70:1 92:20 116:11 121:2 165:14 168:17	<b>stated</b> 95:10 104:14 123:4	<b>straightforward</b> 22:18
<b>Simons</b> 54:3,5,8	<b>sot</b> 13:16	<b>Speculative</b> 66:5	<b>statement</b> 61:15 70:22 77:18 80:20 81:4 98:9 104:8 133:23 136:13,15 137:21	<b>Strategic</b> 19:17
<b>simply</b> 13:6 116:1	<b>sought</b> 169:10 170:18	<b>speeds</b> 84:24 122:13	<b>statements</b> 148:18	<b>Street</b> 3:9,18 7:4
<b>sir</b> 8:17 152:20 175:2	<b>sound</b> 97:6	<b>spell</b> 8:15 18:1	<b>states</b> 92:5	<b>strictly</b> 55:19
<b>sister</b> 39:10	<b>sounds</b> 9:11 99:7	<b>spelling</b> 37:12	<b>stations</b> 122:9	<b>strike</b> 24:1 30:6 62:16 122:5 139:21 141:1 155:2 158:14, 15
<b>sit</b> 52:16,23 97:1 109:13 124:25 142:11,17 162:15 167:12	<b>source</b> 48:8 90:13, 24 91:3 92:8 98:2,8	<b>spending</b> 69:20 70:3,6	<b>status</b> 102:23 117:8 171:12,16	<b>Strikes</b> 4:10
<b>site</b> 37:22,24 92:25 93:13,19,24 118:15, 18 173:6,8	<b>sources</b> 21:10	<b>spoken</b> 55:15 130:11	<b>stay</b> 152:8,10	<b>Stringer</b> 3:14 7:18 53:8,10,13,14 61:22 62:3 131:1,4,9 159:4
<b>sites</b> 109:5	<b>south</b> 3:13 78:6	<b>stability</b> 94:6	<b>staying</b> 150:1, 152:2	<b>strobe</b> 29:13 67:23 69:19 96:20 134:13, 20 136:19,23
<b>situation</b> 34:11 100:21 101:1	<b>southern</b> 24:20	<b>stage</b> 98:15,16	<b>Steny</b> 19:6	<b>strongly</b> 117:5 118:8
<b>size</b> 44:18 116:1	<b>space</b> 163:21	<b>stages</b> 36:11 98:14	<b>step</b> 99:4,11 119:14	<b>structure</b> 12:20 137:24 150:1 152:2, 9 158:2
<b>slide</b> 113:6	<b>speak</b> 14:19 16:14 17:5 41:10 61:19 75:2 90:3 165:9 167:11 172:20 174:19	<b>stamp</b> 127:19	<b>Stephens</b> 4:17 5:4 48:20 49:8,16 72:25 76:16 127:7,17 128:12 131:11 134:12,15 144:3 151:1 152:22 153:3 154:17 158:3,7	<b>structures</b> 67:14
<b>small</b> 14:23 28:4 42:3 43:25 51:9 107:7	<b>speaking</b> 128:11	<b>standard</b> 13:24 41:11 45:23 75:12 119:3	<b>Stephens'</b> 136:9 150:3 153:5 158:4	<b>structuring</b> 19:21
<b>Smith</b> 3:2 8:6 57:15,17,21 58:6,12 59:14 60:24 160:12 162:25 163:5,17,25 164:15 165:7,21 166:2,7,13 167:1, 13,16 168:8 174:1, 19 175:17,20 176:3	<b>specific</b> 42:13 46:7,11 47:25 49:4 88:14 91:3 97:14 100:1,3 102:25 108:9 112:17 124:9, 12 133:6 147:11 165:19 168:4 173:9 175:1	<b>standards</b> 46:9 73:18	<b>Stephens's</b> 83:5 127:20 135:23	<b>struts</b> 67:19
<b>Smiths</b> 18:7	<b>specifically</b> 8:24 40:19,20 59:21 77:10,15 85:25 90:1 94:2,25 99:11 102:5 110:19 113:21 117:1 121:17,23 123:25 124:19 148:7,15 171:7 172:9 173:3	<b>standpoint</b> 70:6 75:7 120:10 153:9	<b>steps</b> 38:5 115:20	<b>stuff</b> 10:11 14:25 22:18 48:2 166:12
<b>Smitty's</b> 18:7	<b>specifics</b> 20:6 169:11 171:13	<b>start</b> 21:13 25:20 40:5,16 82:7,19 101:23 105:10 115:21 119:20 169:15,19	<b>Steve</b> 8:20 32:6	<b>subject</b> 121:25 122:7 123:18 124:1 136:19 160:16,18 166:4,24
<b>snapshot</b> 119:17	<b>specs</b> 162:22	<b>started</b> 9:2 16:19, 20 17:3,15 33:10 34:13 40:4 46:24 78:12 81:24 158:7	<b>sticker</b> 79:16	<b>subjects'</b> 122:16
<b>solar</b> 13:21,22 15:11 26:3,5,7 41:14,17 55:3 78:14,18,23 111:1, 17 122:19	<b>speculate</b> 9:19 65:17,18 79:3 90:6 121:10	<b>starting</b> 132:24 169:25	<b>stickers</b> 79:15	<b>subleased</b> 31:7
<b>sold</b> 27:11,13 34:20 35:10 74:19 77:20 110:8		<b>starts</b> 107:5	<b>stipulation</b> 159:2	<b>submitted</b> 161:3 167:2,17
<b>solely</b> 23:16		<b>state</b> 6:1 8:4,14 22:20 24:19 51:6 62:7 73:13 76:1 77:13 85:4 116:1 132:11	<b>stop</b> 16:4 173:10	<b>subsequent</b> 155:6
			<b>stopped</b> 102:12	<b>subsequently</b> 135:21
			<b>storage</b> 12:10 13:1,2,15 22:21 23:3 26:9,21 27:1 34:6 73:3 75:7 84:23 120:19 130:6 169:22 172:1	<b>subsumed</b> 19:4
			<b>store</b> 17:8 73:12	<b>successful</b> 109:24
			<b>stores</b> 18:5	<b>sued</b> 100:21
				<b>suitable</b> 15:20

<b>Suite</b> 3:5,9	15,16 161:20	<b>tend</b> 20:13 94:25	<b>thinking</b> 64:10	<b>titles</b> 14:16
<b>sum</b> 70:6	168:12,15	95:10	101:19 104:2	<b>today</b> 7:5 8:23 9:21
<b>summer</b> 30:22	<b>T</b>	<b>Terence</b> 3:6 8:4,	107:10	10:3,17 30:16 36:14
99:10,23		16:5 173:25	<b>thinks</b> 108:5	52:16,23 67:10 97:1
<b>sun</b> 15:10 30:22,25	<b>table</b> 30:23,25 45:8	<b>term</b> 23:13 130:2	<b>third-party</b> 51:9	100:10 109:13
<b>super</b> 41:2	103:3	<b>terms</b> 11:11 12:20	91:12	117:14 122:2
<b>SUPERIOR</b> 6:1	<b>takedown</b> 96:14	13:6,19 14:24 16:3,	<b>thought</b> 29:20 41:3	124:25 129:14
<b>supervised</b> 50:17	<b>taking</b> 4:8 73:9	13 17:17 18:20	59:7 73:23 121:5	133:7 134:23
<b>supervises</b> 39:21	98:15 108:7 115:4	19:24 23:6 27:23	157:10 165:8	142:11,17 147:5
<b>supervisor</b> 166:23	120:5	29:7 30:5 34:17	172:21 176:2	149:19 162:16,21
<b>supplier</b> 144:11	<b>Talia</b> 7:25 169:6	42:7 46:3 49:18	<b>thoughts</b> 133:24	167:12
<b>support</b> 67:20	<b>talk</b> 12:7 24:11,25	50:17 55:2 59:19	157:9	<b>Today's</b> 7:2 71:21
<b>supposed</b> 120:1	32:10 46:18 57:13	62:15 64:5 70:24	<b>three-page</b> 21:9	143:15
<b>surprise</b> 111:24	85:17 91:8 92:7	73:5, 74:7,8 80:24	<b>threshold</b> 90:18	<b>told</b> 10:10 22:21
<b>surrounding</b>	119:5 124:2 128:16	84:5 85:12 87:20	92:15	46:19 49:25 65:22
88:18 158:17	139:9 141:17 149:1	88:17,20 90:24 94:1	<b>time</b> 11:5 19:6	68:5 85:22 88:5,10
<b>surroundings</b>	151:11	95:20 109:14	20:17 24:4 25:8	97:15 103:24 119:1
150:13	<b>talked</b> 16:16 27:6	110:13 116:9	30:9 31:1 33:9	142:13,24 151:9,14,
<b>swear</b> 8:7	55:12 56:7 57:23	119:25 125:4,7,11,	36:24,25 43:16	16 153:8,25 154:18
<b>Swiller</b> 6:18 7:8,22	84:1 109:10 110:5	17,18 126:21 131:8	44:12 45:22 46:24	<b>Tom</b> 144:6 146:22
8:14,16 10:9 11:3	113:25 125:4 129:6	136:25 137:2,11	52:4 53:1 55:5	<b>top</b> 65:10 90:17
16:13 21:2,10 22:3	130:10 153:19,20	142:16 146:4 158:8,	56:18,20,23 57:12	108:13 126:20
31:2 35:18 37:5	156:23	13 166:15,23	58:10 60:6 61:4	129:18 131:20
41:21 46:2 48:5	<b>talking</b> 32:4 36:16	174:17	63:8 71:12 75:5	146:23 159:3,4
59:16 61:8 63:10,22	45:14 74:15 76:17	<b>Terry</b> 173:16	76:22 77:6 80:9,13	<b>topic</b> 47:18,23
65:3 69:17 71:23,24	79:1 80:22 108:11	<b>test</b> 122:9	82:16 85:5 86:21	48:15 49:3 69:12
72:6 79:10 80:6	112:14 114:2 124:8,	<b>testified</b> 6:22	88:3,6 94:8,13,22	111:6 149:15
82:17 83:19 85:5,17	18 125:10,15 128:5,	174:2,5	95:2 101:5,23	158:21
95:25 99:8 100:9	10 145:3 147:1,24	<b>testify</b> 11:15	102:1,3 103:8,11	<b>topography</b> 88:10,
101:10 102:16	156:25 169:13	<b>testimony</b> 10:15	106:7 108:8 112:9,	13
111:11 114:12	<b>talks</b> 21:15 22:1,7	140:3 141:7 171:6	23 114:12,23	<b>total</b> 32:24
118:11 121:18	70:14 78:25 83:17	173:7	117:18 118:2,7,16	<b>totally</b> 26:16,18
130:24 138:7	84:15 86:3 104:18	<b>testing</b> 26:19	120:23 122:25	<b>tower</b> 28:12,14
139:10 140:11	114:6 122:5 123:21	<b>text</b> 113:6	124:3 127:1,19	29:7,9,16 36:4 46:2
143:17,18 148:5	147:1,2 148:17	<b>there'd</b> 132:17	132:4 136:18,20,24	51:21 52:2,20
149:23 153:18	<b>tall</b> 92:10	<b>thing</b> 9:4, 42:15	141:22 144:23,25	57:19,20 58:19
160:6 161:19	<b>target</b> 81:15	43:1 46:20 61:24	145:12,25 146:11	60:25 62:20 63:4
162:24 168:11	<b>task</b> 101:8	65:1 74:3 82:18	149:4 152:6,23	64:5,7,11,13 65:5,8,
169:14 173:24	<b>tax</b> 113:19	90:14 118:11,25	153:18,23 156:4	9,10,24, 66:25 68:1,
175:7,15	<b>Tehachapi</b> 24:19	147:17 162:6	172:12	22 69:2,18,23 82:11
<b>Swiller's</b> 21:17	<b>Tehachapi's</b> 32:21	168:22	<b>timeline</b> 153:16	84:16,20,23 85:9,10
69:12 70:18	<b>telephone</b> 3:6	<b>things</b> 9:9,20,22	<b>times</b> 45:6 111:12	86:25 88:6,11,
<b>sworn</b> 6:21 8:10	141:22 142:3,16	19:2 21:11 22:19	166:2	90:14,17 92:9,13,
<b>system</b> 67:20	147:10,25	23:7 25:2 35:25	<b>timing</b> 94:19 97:14	99:7 100:2 102:11
<b>Systems</b> 7:7,24	<b>telling</b> 68:3 85:21	44:1 45:10,12,	113:14 174:25	113:14 174:25
71:23 143:17 160:8,	96:9 97:23	62:19 64:20 68:3	<b>timing-wise</b>	<b>title</b> 14:14 35:13
		69:5 87:21 99:15	149:22	46:25 47:2
		100:23 113:19		
		135:21 148:23		
		154:19		

134:8,14,18,20,25 135:2,5,13,15,18 136:19,22 137:3 138:17,23 140:7,16 141:11 144:8,11,12, 17 145:8 148:9 150:14 152:8,18 153:10,13 155:3,14, 18,24 156:16,20 160:9,21,23,24 161:4,8,13,14 162:7,9 163:13 164:5,7,9,17,23,24 165:1,4,9 166:4, 167:24 169:12 170:21 171:3,14 173:11 175:21	20,24 33:7,15 34:11 35:3 76:18 77:17 82:21  <b>trial</b> 10:5 11:6  <b>trouble</b> 148:19  <b>true</b> 23:11 25:10 26:5 34:4 38:2,3 43:10,14 44:2,3 54:1 56:9,10 58:20 61:16 62:20 63:1,2, 23,24 64:3,14,15 67:1 69:14 70:8 71:3,8 76:2,5 86:23 87:17 89:9 90:22 91:21,25 95:17 96:18,19,21 100:6, 16,17 101:1,2,25 103:5,19 104:5 109:25 110:1,13 111:24,25 114:14, 25 115:6,12,22 118:19 120:13 121:1,12 123:5,11, 14 125:8 126:9 127:2,5 132:20 133:14 134:23 135:21 136:8 137:9 140:18 141:3,6 145:20 146:10 149:8 151:24 152:6, 25 154:12,21 162:12 166:3 169:10,16 170:2	125:16  <b>types</b> 67:6,16  <hr/> <b>U</b> <hr/> <b>U.S.</b> 12:14  <b>uh-huh</b> 16:15,21 20:1,7 23:9 26:4 28:23 33:16 34:5, 12,15,23 35:7 49:24 50:9 51:13 52:8,18 53:2 60:17 62:8,18 65:21 66:17 67:12 81:21 85:11 88:22 93:6 99:5,16 101:17 112:12 114:5,11,20, 22 119:11 120:20 128:7 135:25 139:11,20 147:18  <b>ultimate</b> 149:6  <b>ultimately</b> 34:8 55:10 110:8 141:5 149:7 155:11 157:17,23  <b>unavoidable</b> 107:14  <b>unaware</b> 68:4 146:5  <b>understand</b> 10:18, 20 11:18 20:5 36:7 42:19 43:7,23 50:7 56:1 63:15 115:16 137:6 138:20 140:10 170:3 172:12  <b>understanding</b> 24:8 26:2 27:6 34:13 42:7 44:24 52:6 56:11 93:9 102:13 103:21 104:10 116:8 118:12 119:1 134:24 149:25 152:1,5,7,21 153:6, 7 163:24 164:15 165:2 168:22  <b>understood</b> 9:18 10:25 95:14 132:17 133:13 157:24 172:17	<b>undulations</b> 88:16  <b>unhappy</b> 38:15  <b>unmarked</b> 96:17, 18 137:23  <b>unrated</b> 122:14  <b>unsafe</b> 165:23  <b>update</b> 109:4 116:23  <b>upsetting</b> 100:16  <b>urge</b> 117:5  <b>urged</b> 118:8  <b>usual</b> 162:6  <b>utilities</b> 76:3  <b>utility</b> 13:20,21  <hr/> <b>V</b> <hr/> <b>V-bar</b> 54:13 89:22 107:21 122:8  <b>V-bar's</b> 108:4  <b>vague</b> 10:19 48:3 63:13 69:25 101:12 113:7 145:25 146:11 163:8 164:10,22 166:18 167:5,22  <b>Valentine's</b> 149:16  <b>Valley</b> 31:5,7 78:2, 11  <b>valuable</b> 76:5 119:18,19,22  <b>valued</b> 126:4  <b>Van</b> 4:4 7:22,23 92:20 106:25 159:15,17 160:4,6,7 164:14,21,25 165:7, 166:21 167:7,24 168:25 175:9,10,12, 14 176:2,5,11  <b>variety</b> 23:7  <b>vendor</b> 55:19  <b>vendors</b> 51:10 89:1 91:13 104:10 172:18 173:1	<b>venture</b> 4:10 25:8 74:14  <b>verbally</b> 130:16  <b>verified</b> 75:23  <b>Vernon</b> 27:14,16, 17,25 35:11  <b>versus</b> 70:7  <b>vetting</b> 72:17  <b>viability</b> 84:24 114:3  <b>viable</b> 94:23 114:9, 14,15 172:22  <b>video</b> 9:16 11:12, 16,24 71:15  <b>videocassette</b> 71:22 143:9,16  <b>videoed</b> 11:13  <b>view</b> 20:9  <b>viewed</b> 87:6  <b>vis-à-vis</b> 158:4  <b>visible</b> 67:13  <b>visibility</b> 68:13 96:23 135:7,11 165:8 171:19  <b>visible</b> 66:25 68:23 135:3  <b>visit</b> 93:13  <b>visited</b> 175:3  <b>visits</b> 92:25 93:2, 19,24 173:7  <b>voice</b> 32:19 163:12  <b>voicemail</b> 134:10  <hr/> <b>W</b> <hr/> <b>W-e-s-s-e-i-n</b> 129:21  <b>Wait</b> 169:18  <b>Walnut</b> 144:5  <b>wanted</b> 46:18 57:10 63:6 91:7 101:4 104:25 105:8 152:18 160:11
<b>towers</b> 28:17,19, 20,24 29:1,5 31:11, 13 32:8 33:13 34:25 35:2,16,25 36:6,7, 12 37:10,22 38:7,8, 18 43:13 45:19 52:13,25 58:19 61:3,10 62:13 63:10,12 64:18,22 65:11 66:10 67:6, 11,16,20,25 68:18 69:10 78:15 80:23 81:2,9,14,16 82:20 83:21 85:13,18 86:9,23 87:3,9,25 114:6,9 117:2,5,20 118:5,9,23 119:3,10 137:23 138:13,19 139:13,23 166:8,9 171:21  <b>track</b> 89:18 92:5 142:2  <b>Tract</b> 88:12 121:22 122:8,10,12 127:5, 23 145:19 155:3,10 160:24 161:5 163:13, 164:25 166:4 167:21,25 175:3,22  <b>tracts</b> 12:11  <b>trained</b> 76:9  <b>training</b> 42:7  <b>transactions</b> 22:4  <b>travels</b> 15:2  <b>Tree</b> 32:16,17,18,	<b>trust</b> 22:15 82:9  <b>truth</b> 6:21,22 11:21  <b>truthful</b> 11:1 12:2 89:12  <b>Tuesday</b> 7:2 71:21 143:15  <b>turbines</b> 33:21  <b>turn</b> 21:25 27:18 84:8 93:5 109:2 121:18 129:10 142:20 143:1,20,25  <b>turned</b> 78:22  <b>two-page</b> 76:12  <b>two-seater</b> 44:18  <b>type</b> 28:22 29:8 38:16 44:18 58:24 65:1 118:11,25			



175:14  
**warning** 29:13  
64:18 65:14 67:24  
69:3,10 134:20  
**warnings** 86:5  
**Washington** 17:20  
**water** 12:11 13:14  
17:6,7,8 26:2,9,21  
27:1 33:22,25 34:6  
51:1 52:7 53:21,23  
70:17 73:3,12 75:7  
103:10 113:2,3,4  
120:18 125:21,23,  
25 126:14 141:4  
156:25 169:22  
171:15 172:1  
**water-related** 51:2  
**ways** 17:7  
**WDS** 7:17,19 12:14,  
23,25 13:8,9 16:22,  
24 17:5 72:10 73:6  
169:21 170:19  
**WDS'S** 171:8 173:1  
**wears** 133:19  
**Webb** 84:20 88:11  
121:22 122:8,10,12  
127:5,22 144:12  
145:19 155:3,10  
160:23 161:4  
163:13, 164:25  
166:4 167:21,25  
175:3,22  
**week** 110:21  
144:14  
**weekly** 171:6  
**weeks** 20:17  
108:16  
**weigh** 116:13  
**weight** 86:19  
**Wessein** 5:5  
129:21 171:19  
**West** 3:9 42:21  
**western** 12:10,13,  
25 13:15 22:20 23:2  
168:21  
**Wetlands** 7:25  
24:2,6 26:23 33:3,5,

7 34:2,3 36:7,23  
38:1 43:13 46:24  
47:7 50:3 51:12,20  
52:4,10,25 55:5,10  
56:2,21 57:9 58:1,8  
71:5 72:10,22  
84:15,21 93:16,20  
107:17 109:25  
110:12 116:11  
120:22 124:4,15  
126:11 129:23  
130:6 134:8 144:5  
146:6 155:11 157:1,  
2 169:7,11,21  
170:1,11 171:24,25  
172:14 174:6  
**whatsoever** 139:2  
**whichever** 174:21  
**white** 29:8 67:11  
68:22  
**whomever** 28:21  
102:9  
**wife** 19:11  
**wind** 13:21 23:11,  
14,15,20 24:13  
25:10,25 27:3,5,7,  
19,23 28:3,5,6,9  
32:11,21 33:13  
35:12 38:5 47:18,24  
48:9 49:3 50:5,10  
51:15 52:3,9 53:25  
54:17,23,24 55:3  
57:18 66:13,20  
75:7,13, 76:17 77:7,  
17 78:18,21 79:2  
80:24 82:3,6,8,13,  
25 84:24 89:17  
95:1,10,12 97:10,  
16,22,25 98:3,6,10,  
12,13 102:18  
103:11,18 107:7  
108:9,11 109:10,21  
110:2 111:1,3,17  
114:10 116:24  
120:19 121:4,24  
122:6,12,17,18,20  
123:7,9,18,23  
124:13,18,19,20  
125:12 141:9  
156:25 157:5  
163:21 164:6  
169:22 170:2  
172:19 173:2

**wind-energy**  
33:17 34:9 35:6  
39:3 50:13 52:21  
66:18 78:8,12 81:9  
84:25 94:23 101:20  
102:9 114:3 123:5  
124:3 141:6,12  
167:25 172:13,14  
**wind-to-energy**  
114:9,14,25 120:24  
**window** 108:19  
**Winther** 56:5,7,12  
128:6,13,14, 155:16  
156:14  
**wires** 29:11 135:7  
**withdraw** 154:6,9  
**wondering** 105:6,7  
172:5  
**word** 9:13  
**words** 72:21  
**work** 16:4 19:8  
20:20 29:21 40:13,  
19,20 50:18 51:5  
56:20 57:25 58:6  
73:1,13 91:24 141:4  
**worked** 17:19,20,  
21 18:14 19:1,3,5  
25:17 39:12 40:25  
41:1 45:7 51:16  
72:17 163:18,19  
**working** 17:14 19:7  
39:6 74:15 107:3  
162:1,19 165:15  
**works** 15:3 23:25  
53:5 57:18 69:7  
158:2  
**World** 30:22,25  
**worried** 9:24 11:13  
132:7,8,9 154:7  
**worries** 53:14 74:1  
**worth** 125:25  
**wrap** 107:9  
**wrapped** 36:16  
**wraps** 66:21  
**writing** 107:20  
149:15

**written** 98:5  
**wrong** 22:19 58:16  
**wrote** 137:22  
148:24 149:23  

---

**Y**

---

**Y-u-c-a-i-p-a** 18:2  
**year** 94:16,21 95:1,  
5,11 96:10 101:23  
107:9,20 108:14,22  
109:5 114:8 115:4  
119:17,20 120:2,6  
150:20 172:7  
**years** 12:19 14:11  
17:12 18:16 39:24  
42:22 44:9 57:1  
115:3,10,11 119:18,  
19  
**Yucaipa** 17:22,24,  
25  
**Yup** 102:15 146:25  

---

**Z**

---

**Z-i-l-k-h-a** 77:21  
**Zela** 3:10 8:2  
**Zilkha** 77:20,23  
**ZKS** 8:1 47:2 48:24  
129:23 151:1 158:5  
**Zurich** 47:1,23  
48:25 49:13,15,18  
72:21 74:11 77:7  
157:22